



**Legislation updated to: 31 January 2015**

## **FIREARMS CONTROL ACT 60 OF 2000**

[ASSENTED TO 4 APRIL 2001]

[DATE OF COMMENCEMENT: 1 JULY 2004]

(Unless otherwise indicated)

*(English text signed by the President)*

### **as amended by**

Firearms Control Amendment Act 43 of 2003  
Firearms Control Amendment Act 28 of 2006  
Civilian Secretariat for Police Service Act 2 of 2011  
Criminal Law (Forensic Procedures) Amendment Act 6 of 2010  
Protection from Harassment Act 17 of 2011  
Dangerous Weapons Act 15 of 2013  
Criminal Law (Forensic Procedures) Amendment Act 37 of 2013

### **Regulations under this Act**

[NB: The Act was amended by the substitution for the words 'Secretary for Safety of [sic] Security', wherever they occurred in the Act, of the words 'Secretary for the Police Service' by s. 35 of the Civilian Secretariat for Police Service Act 2 of 2011.]

### **ACT**

**To establish a comprehensive and an effective system of firearms control; and to provide for matters connected therewith.**

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**Preamble**

WHEREAS every person has the right to life and the right to security of the person, which includes, among other things, the right to be free from all forms of violence from either public or private sources;

AND WHEREAS the adequate protection of such rights is fundamental to the well-being and social and economic development of every person;

AND WHEREAS the increased availability and abuse of firearms and ammunition has contributed significantly to the high levels of violent crime in our society;

AND WHEREAS the Constitution places a duty on the State to respect, protect, promote and fulfil the rights in the Bill of Rights;

BE IT THEREFORE ENACTED by the Parliament of the Republic of South Africa, as follows: -

## CHAPTER 1 INTRODUCTORY PROVISIONS (ss 1-2)

### 1 Definitions

**[NB:** Definitions of '**ammunition**', '**cartridge**', '**occasional hunter**' and '**occasional sports person**' have been substituted and the definitions of '**dispossession**', '**fit and proper person**' and '**Secretary for the Police Service**'<sup>1</sup> have been inserted by s. 1 of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation, unless otherwise indicated. See PENDLEX.]

In this Act, unless the context indicates otherwise-

**'accredit'** means accredit as contemplated in section 8;

[Date of commencement of definition of 'accredit': 1 July 2003.]

**'airgun'** means any device manufactured to discharge a bullet or any other projectile-

(a) of a calibre of less than 5.6 mm (.22 calibre); or

(b) at a muzzle energy of less than 8 joules (6ft-lbs),

by means of compressed gas and not by means of burning propellant;

[Definition of 'airgun' substituted by s. 1 (a) of Act 43 of 2003.]

[Date of commencement of definition of 'airgun': 1 June 2001.]

**'ammunition'** means a primer or complete cartridge;

[Date of commencement of definition of 'ammunition': 1 June 2001.]

**'antique firearm'** .....

[Definition of 'antique firearm' deleted by s. 1 (b) of Act 28 of 2006.]

[Date of commencement of definition of 'antique firearm': 1 June 2001.]

**'Appeal Board'** means the Appeal Board established by section 128;

[Date of commencement of definition of 'Appeal Board': 1 July 2003.]

**'authorised person'** .....

[Definition of 'authorised person' inserted by s. 7 (a) of Act 6 of 2010 and repealed by s. 8 of Act 37 of 2013.]

**'body-prints'** .....

[Definition of 'body-prints' inserted by s. 7 (a) of Act 6 of 2010 and repealed by s. 8 of Act 37 of 2013.]

**'calibre'**, for the purposes of sections 18 (2) (b) and 19 (3), means a cartridge as described by dimensions and make, mark, model or type;

[Definition of 'calibre' inserted by s. 1 (c) of Act 28 of 2006.]

**'cartridge'** means a complete object consisting of a cartridge case, primer, propellant and bullet;

[Date of commencement of definition of 'cartridge': 1 June 2001.]

**'child'** .....

[Definition of 'child' inserted by s. 7 (b) of Act 6 of 2010 and repealed by s. 8 of Act 37 of 2013.]

**'comparative search'** .....

[Definition of 'comparative search' inserted by s. 7 (b) of Act 6 of 2010 and repealed by s. 8 of Act 37 of 2013.]

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1 Originally 'Secretary for Safety and Security', substituted by s. 35 of the Civilian Secretariat for Police Service Act 2 of 2011



**'competency certificate'** means a competency certificate contemplated in Chapter 5;

**'dealer'** means any person who is licensed in terms of this Act to trade in firearms and ammunition;

**'dedicated hunter'** means a person who actively participates in hunting activities and who is a member of an accredited hunting association;

[Date of commencement of definition of 'dedicated hunter': 1 July 2003.]

**'dedicated sports person'** means a person who actively participates in sports-shooting and who is a member of an accredited sports-shooting organisation;

[Date of commencement of definition of 'dedicated sports person': 1 July 2003.]

**'Designated Firearms Officer'** means a police official contemplated in section 124 (2) (h);

[Date of commencement of definition of 'Designated Firearms Officer': 1 July 2003.]

**'firearm'** means any-

- (a) device manufactured or designed to propel a bullet or projectile through a barrel or cylinder by means of burning propellant, at a muzzle energy exceeding 8 joules (6 ft-lbs);
- (b) device manufactured or designed to discharge rim-fire, centre-fire or pin-fire ammunition;
- (c) device which is not at the time capable of discharging any bullet or projectile, but which can be readily altered to be a firearm within the meaning of paragraph (a) or (b);
- (d) device manufactured to discharge a bullet or any other projectile of a calibre of 5.6 mm (.22 calibre) or higher at a muzzle energy of more than 8 joules (6 ft-lbs), by means of compressed gas and not by means of burning propellant; or

[Para. (d) substituted by s. 1 (b) of Act 43 of 2003.]

(e) barrel, frame or receiver of a device referred to in paragraphs (a), (b), (c) or (d), but does not include a muzzle loading firearm or any device contemplated in section 5;

[Definition of 'firearm' amended by s. 1 (f) of Act 28 of 2006.]

[Date of commencement of definition of 'firearm': 1 June 2001.]

**'fully automatic'** means capable of discharging more than one shot with a single depression of the trigger;

**'gunsmith'** means any person who performs work contemplated in section 59, but who does not manufacture firearms;

**'handgun'** means a pistol or revolver which can be held in and discharged with one hand;

**'imitation firearm'** means anything that has the appearance of a firearm but is not capable of operating as such and cannot by superficial examination be identified as an imitation;

**'juristic person'** includes a trust;

[Definition of 'juristic person' substituted by s. 1 (h) of Act 28 of 2006.]

[Date of commencement of definition of 'juristic person': 1 July 2003.]

**'load'** includes reload, and 'loading' has a corresponding meaning;

**'Minister'** means the Minister of Safety and Security;

[Date of commencement of definition of 'Minister': 1 July 2003.]

**'muzzle loading firearm'** means-

(a) [sic] a barrelled device that can fire only a single shot, per barrel, and requires after each shot fired the individual reloading through the muzzle end of the barrel with separate components consisting of a-

- (i) measured charge of black powder or equivalent propellant;

- (ii) wad; and
- (iii) lead bullet, sabot or shot functioning as a projectile,  
and ignited with a flint, match, wheel or percussion cap;

[Definition of 'muzzle loading firearm' inserted by s. 1 (i) of Act 28 of 2006.]

**'National Commissioner'** means the National Commissioner of the South African Police Service, appointed in terms of section 207 (1) of the Constitution;

[Date of commencement of definition of 'National Commissioner': 1 July 2003.]

**'occasional hunter'** means any person who, from time to time, participates in hunting activities but who is not a member of an accredited hunting association;

[Date of commencement of definition of 'occasional hunter': 1 July 2003.]

**'occasional sports person'** means any person who, from time to time, participates in sports-shooting but who is not a member of an accredited sports-shooting organisation;

[Date of commencement of definition of 'occasional sportsperson': 1 July 2003.]

**'police official'** means-

- (a) a member of the South African Police Service as defined in section 1 of the South African Police Service Act, 1995 (Act 68 of 1995), and a member of any municipal police service established in terms of that Act;
- (b) a person designated by the Minister as a police official under section 142; and
- (c) a member of the South African National Defence Force deployed in co-operation with the South African Police Service;

[Date of commencement of definition of 'police official': 1 June 2001.]

**'prescribed'** means prescribed by regulation;

[Date of commencement of definition of 'prescribed': 1 July 2003.]

**'previous Act'** means the Arms and Ammunition Act, 1969 (Act 75 of 1969);

[Date of commencement of definition of 'previous Act': 1 July 2003.]

**'private collector'** means a person who collects firearms or ammunition, who is a member of an accredited collector's association and who is not a public collector;

[Date of commencement of definition of 'private collector': 1 July 2003.]

**'professional hunter'** means any person who supervises, escorts, offers to, or agrees to supervise or escort a client, for reward in connection with the hunting of a wild or exotic animal and who is authorised to do so in terms of any applicable provincial law;

[Definition of 'professional hunter' inserted by s. 1 (l) of Act 28 of 2006.]

**'public collector'** means a person who collects firearms or ammunition for display to the public and is accredited as such;

[Date of commencement of definition of 'public collector': 1 July 2003.]

**'Registrar'** means the person referred to in section 123;

[Date of commencement of definition of 'Registrar': 1 July 2003.]

**'regulation'** means a regulation made under section 145;

[Date of commencement of definition of 'regulation': 1 July 2003.]

**'restricted firearm'** means any firearm contemplated in section 14 (1);

**'security company'** .....

[Definition of 'security company' deleted by s. 1 (c) of Act 43 of 2003.]

**'security officer'** means a security officer as defined in section 1 of the Private Security Industry Regulation Act, 2001 (Act 56 of 2001);

[Definition of 'security officer' substituted by s. 1 (d) of Act 43 of 2003.]

[Date of commencement of definition of 'security officer': 1 July 2003.]

**'security service provider'** means a security service provider as defined in section 1 of the Private Security Industry Regulation Act, 2001 (Act 56 of 2001);

[Definition of 'security service provider' inserted by s. 1 (e) of Act 43 of 2003.]

**'semi-automatic'** means self-loading but not capable of discharging more than one shot with a single depression of the trigger;

**'this Act'** includes any regulation;

[Date of commencement of definition of 'this Act': 1 July 2003.]

**'transfer'** includes selling, letting, donating, lending or otherwise parting with possession.

## 2 Purpose of Act

The purpose of this Act is to-

- (a) enhance the constitutional rights to life and bodily integrity;
- (b) prevent the proliferation of illegally possessed firearms and, by providing for the removal of those firearms from society and by improving control over legally possessed firearms, to prevent crime involving the use of firearms;
- (c) enable the State to remove illegally possessed firearms from society, to control the supply, possession, safe storage, transfer and use of firearms and to detect and punish the negligent or criminal use of firearms;
- (d) establish a comprehensive and effective system of firearm control and management; and
- (e) ensure the efficient monitoring and enforcement of legislation pertaining to the control of firearms.

[Date of commencement of s. 2: 1 June 2001.]

## CHAPTER 2 PROHIBITIONS (ss 3-4)

### 3 General prohibition in respect of firearms and muzzle loading firearms

(1) No person may possess a firearm unless he or she holds for that firearm-

- (a) a licence, permit or authorisation issued in terms of this Act; or
- (b) a licence, permit, authorisation or registration certificate contemplated in item 1, 2, 3, 4, 4A or 5 of Schedule 1.

(2) No person may possess a muzzle loading firearm unless he or she has been issued with the relevant competency certificate.

[S. 3 substituted by s. 2 of Act 28 of 2006.]

### 4 Prohibited firearms

(1) The following firearms and devices are prohibited firearms and may not be possessed or licensed in terms of this Act, except as provided for in sections 17, 18 (5), 19 and 20 (1) (b):

- (a) Any fully automatic firearm;
- (b) any gun, cannon, recoilless gun, mortar, light mortar or launcher manufactured to fire a rocket, grenade, self-propelled grenade, bomb or explosive device;
- (c) any frame, body or barrel of such a fully automatic firearm, gun, cannon, recoilless gun, mortar, light mortar or launcher;
- (d) any projectile or rocket manufactured to be discharged from a cannon, recoilless gun or mortar, or rocket launcher;
- (e) any imitation of any device contemplated in paragraph (b), (c) excluding the frame, body or barrel of a fully automatic firearm, or (d);

[Para. (e) substituted by s. 3 of Act 28 of 2006.]

- (f) any firearm-

- (i) the mechanism of which has been altered so as to enable the discharging of more than one shot with a single depression of the trigger;
- (ii) the calibre of which has been altered without the written permission of the Registrar;
- (iii) the barrel length of which has been altered without the written permission of the Registrar;
- (iv) the serial number or any other identifying mark of which has been changed or removed without the written permission of the Registrar.

(2) For purposes of subsection (1) (f) (iii), the incidental alteration of the length of the barrel of a firearm by a gunsmith in the ordinary course of a gunsmith's work which does not have as an objective the alteration of the length of the barrel of that firearm must not be regarded as an alteration contemplated in that subsection.

[Sub-s. (2) substituted by s. 2 of Act 43 of 2003.]

(3) (a) The Minister may, by notice in the *Gazette*, declare any other firearm of a specified type to be a prohibited firearm if it is-

- (i) in the interest of public safety; or
- (ii) desirable for the maintenance of law and order.

(b) A notice contemplated in paragraph (a) must be tabled in Parliament at least 14 days before publication thereof if Parliament is then sitting, and if Parliament is not sitting, within seven days after the commencement of the next sitting.

(c) A notice contemplated in paragraph (a) is of full force and effect until withdrawn by the Minister or by a resolution of Parliament.

### **CHAPTER 3**

#### **SPECIAL PROVISIONS IN RESPECT OF CERTAIN DEVICES (s 5)**

##### **5 Devices not firearms for purposes of this Act**

(1) For purposes of this Act, the following devices are not regarded as firearms:

- (a) Any explosive powered tool manufactured specifically for use in industrial application, including line-throwing guns and impex-type building pistols;
  - (b) any explosive powered tool manufactured to split rock or concrete by means of discharging an explosive cartridge;
  - (c) any industrial tool manufactured for use in the mining and steel industry to remove refractory material;
  - (d) any captive bolt gun manufactured for use in an abattoir in the humane killing of animals;
  - (e) a muzzle loading firearm;
- [Para. (e) substituted by s. 4 of Act 28 of 2006.]
- (f) an airgun;
  - (g) a tranquilliser firearm;
  - (h) a paintball gun;
  - (i) a flare gun;
  - (j) a deactivated firearm; and
  - (k) any other device which the Minister may, by notice in the *Gazette*, exempt.

(2) A notice contemplated in subsection (1) (k) must be tabled in Parliament at least 14 days before publication thereof if Parliament is then sitting, and if Parliament is not sitting, within seven days after the commencement of the next sitting.

(3) A notice contemplated in subsection (1) (k) is of full force and effect until withdrawn by the Minister or by a resolution of Parliament.

[Date of commencement of s. 5: 1 June 2001.]

## **CHAPTER 4**

### **COMPETENCY CERTIFICATES, LICENCES, PERMITS, AUTHORISATIONS AND ACCREDITATIONS (ss 6-8)**

#### **6 Competency certificates, licences, permits and authorisations**

(1) The Registrar may issue any competency certificate, licence, permit or authorisation contemplated in this Act-

(a) on receipt of an application completed in the prescribed form, including a full set of fingerprints of the applicant; and

**[NB:** Para. (a) has been substituted by s. 5 of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDLEX.]

(b) if the applicant complies with all the applicable requirements of this Act.

(2) Subject to section 7, no licence may be issued to a person who is not in possession of the relevant competency certificate.

(3) Every application for a competency certificate, licence, permit or authorisation must be accompanied by such information as may be prescribed.

#### **7 Applications by persons other than natural persons**

(1) When a juristic person wishes to apply for a licence, permit or authorisation in terms of this Act, it must nominate a natural person to apply on its behalf.

(2) The person so nominated must be identified on the licence, permit or authorisation as the responsible person.

(3) A responsible person who holds any licence, permit or authorisation issued in terms of this Act pursuant to an application contemplated in subsection (1) on behalf of the juristic person must for purposes of this Act be regarded as the holder of the licence in question.

(4) If it becomes necessary to replace a responsible person for any reason, the juristic person must in writing-

(a) nominate a new responsible person who must be in possession of the relevant competency certificate; and

(b) notify the Registrar of the nomination within seven days from the date of the nomination.

[Sub-s. (4) substituted by s. 6 (a) of Act 28 of 2006.]

(5) For the purposes of this Act, a juristic person includes a trust, as long as the trust deed-

(a) clearly provides for the possession of firearms, ammunition or muzzle loading firearms by the trust;

(b) stipulates clearly the intended purpose of the possession of firearms, ammunition or muzzle loading firearms by the trust; and

(c) indicates that the possession of the firearms, ammunition or muzzle loading firearms by the trust may only endure as long as the possession is necessary to achieve the stated intended purpose.

[Sub-s. (5) added by s. 6 (b) of Act 28 of 2006.]

#### **8 Accreditation**

(1) Any accreditation required in terms of this Act must be done by the Registrar in accordance with such regulations as may be prescribed.

(2) The regulations contemplated in subsection (1) may set out different sets of criteria, in respect of different accreditations, which the Registrar must apply when issuing an accreditation and which criteria must at least include criteria relating to-

- (a) trustworthiness and integrity;
- (b) suitability to perform the relevant functions in terms of this Act;
- (c) capacity to serve the purpose of the accreditation; and
- (d) capacity to advance the purposes of this Act.

(3) (a) The Registrar may, by notice in writing, cancel an accreditation issued in terms of this Act if-

- (i) there is no longer compliance with any criterion for accreditation;
  - (ii) the holder of the accreditation no longer qualifies to hold the accreditation in terms of this Act; or
  - (iii) the holder of the accreditation has contravened or failed to comply with any provision of this Act or any condition specified in the accreditation.
- (b) A notice contemplated in subparagraph (a) may only be issued if the Registrar has-
- (i) given the holder of the accreditation notice in writing of the grounds on which the cancellation is to be considered;
  - (ii) informed the holder concerned in writing that he or she may submit written representations, within 30 days, as to why the accreditation should not be cancelled; and
  - (iii) duly considered any representations received and all the facts pertaining to the matter.

[Sub-s. (3) substituted by s. 7 (a) of Act 28 of 2006.]

(4) (a) If a notice contemplated in subsection (3) is issued in the case of an accreditation in respect of an association or organisation contemplated in section 16, 17, 18 or 19-

- (i) such notice must be published in the *Gazette*; and
- (ii) the registered members of that association or organisation must, within six months from the date of publication, join another relevant accredited association or organisation.

(b) If a notice contemplated in subsection (3) is issued in the case of a licence issued in terms of section 20 (2) (b) to (f), the former holder of the accreditation must dispose of the firearm in question through a dealer or in such manner as the Registrar may determine.

(c) The disposal must take place within 60 days of the receipt of the notice or determination.

[Sub-s. (4) added by s. 7 (b) of Act 28 of 2006.]

(5) If the firearm is not disposed of within 60 days-

- (a) it must be forfeited to the State; and
- (b) the former holder of the accreditation must surrender it immediately at such place and in such manner as the Registrar may determine.

[Sub-s. (5) added by s. 7 (b) of Act 28 of 2006.]

(6) Any period contemplated in this section may be extended by the Registrar on good cause shown.

[Sub-s. (6) added by s. 7 (b) of Act 28 of 2006.]

[Date of commencement of s. 8: 1 July 2003.]

## CHAPTER 5 COMPETENCY CERTIFICATES (ss 9-10A)

### 9 Application for competency certificate

(1) An application for a competency certificate to possess a firearm, to possess a muzzle loading firearm, to possess a firearm as a private collector in such specific category as may be prescribed, to trade in firearms, to manufacture firearms or to carry on business as a gunsmith must be delivered to the Designated Firearms Officer responsible for the area in which the applicant ordinarily resides or in which the applicant's business is or will be situated, as the case may be.

[Sub-s. (1) substituted by s. 8 of Act 28 of 2006.]

(2) Where a person has not previously obtained a competency certificate, a competency certificate may only be issued to such person if he or she-

- (a) is 21 years or older on the day the application is received by the Designated Firearms Officer;
- (b) is a South African citizen or a holder of a permanent South African residence permit;
- (c) is a fit and proper person to possess a firearm, to trade in firearms, to manufacture firearms or to conduct business as a gunsmith, as the case may be;
- (d) is of stable mental condition and is not inclined to violence;
- (e) is not dependent on any substance which has an intoxicating or narcotic effect;
- (f) has not been convicted of any offence under or in terms of this Act or the previous Act and sentenced to a period of imprisonment without the option of a fine;
- (g) has not been convicted, whether in or outside South Africa, of an offence involving the unlawful use or handling of a firearm by him or her or another participant to the offence, whether committed in or outside South Africa;
- (h) has not been convicted, whether in or outside South Africa, of an offence involving-
  - (i) violence or sexual abuse, whether committed in or outside South Africa, and sentenced to a period of imprisonment without the option of a fine; or
  - (ii) physical or sexual abuse which occurred within a domestic relationship as defined in section 1 of the Domestic Violence Act, 1998 (Act 116 of 1998), whether committed in or outside South Africa;
- (i) has not been convicted of fraud in relation to, or supplying false information for the purposes of, obtaining a competency certificate, licence, permit or authorisation in terms of this Act or the previous Act;
- (j) has not been convicted, whether in or outside South Africa, of an offence involving the abuse of alcohol or drugs, whether committed in or outside South Africa, and sentenced to a period of imprisonment without the option of a fine;
- (k) has not been convicted, whether in or outside South Africa, of an offence involving dealing in drugs, whether committed in or outside South Africa, and sentenced to a period of imprisonment without the option of a fine;
- (l) has not been convicted of an offence in terms of the Domestic Violence Act, 1998 (Act 116 of 1998), and sentenced to a period of imprisonment without the option of a fine;
- (m) has not been convicted of an offence involving the negligent handling of a firearm;
- (n) has not been convicted of an offence in terms of the Explosives Act, 1956 (Act 26 of 1956), and sentenced to a period of imprisonment without the option of a fine;

- (o) has not been convicted, whether in or outside South Africa, of an offence involving sabotage, terrorism, public violence, arson, intimidation, rape, kidnapping or child stealing, whether committed in or outside South Africa;  
[Para. (o) substituted by s. 3 of Act 43 of 2003.]
- (p) has not become or been declared unfit to possess a firearm in terms of this Act or the previous Act;
- (q) has successfully completed the prescribed test on knowledge of this Act;
- (r) has successfully completed the prescribed training and practical tests regarding the safe and efficient handling of a firearm; and
- (s) has, where applicable, successfully completed the prescribed training and practical tests for firearms dealers, manufacturers, gunsmiths, security officers or other persons who use firearms in the course of their business.

(3) Any offence referred to in subsection (2) includes any conspiracy, incitement or attempt to commit such offence, and means an offence in respect of which-

- (a) a court has not made a determination that the person is not unfit to possess a firearm despite the conviction; and
- (b) the sentence has been complied with less than five years before the application for a competency certificate was received by the Designated Firearms Officer.

(4) The disqualification contemplated in subsection (2) (p) ends upon the expiry of a period of five years calculated from the date on which the person became or was declared unfit, or the expiry of the period for which the declaration is valid, whichever occurs first.

(5) (a) Despite subsection (2) (a), the Registrar may allow a person under the age of 21 years to apply for a competency certificate if there are compelling reasons which require the person to obtain a competency certificate or licence to possess a firearm.

(b) Compelling reasons contemplated in paragraph (a) may include the fact that the applicant conducts a business, is gainfully employed, a dedicated hunter, a dedicated sports person or a private collector.

(6) (a) Where a person has previously obtained a competency certificate, a further competency certificate may only be issued to such person if he or she satisfies such requirements as may be prescribed.

(b) The requirements contemplated in paragraph (a) may not be more onerous than those applicable to a person who has not previously obtained a competency certificate.

## 10 Competency certificate

(1) A competency certificate must specify-

- (a) whether it relates to competency to-
  - (i) possess a firearm;
  - (iA) possess a muzzle loading firearm;  
[Sub-para. (iA) inserted by s. 9 (a) of Act 28 of 2006.]
  - (iB) possess a firearm as a private collector in such specific category as may be prescribed;  
[Sub-para. (iB) inserted by s. 9 (a) of Act 28 of 2006.]
  - (ii) trade in firearms;
  - (iii) manufacture firearms; or
  - (iv) conduct business as a gunsmith; and
- (b) all the relevant tests successfully completed by the holder.



(2) A competency certificate contemplated in subsection (1) (a) (i), (ii), (iii) and (iv), remains valid for the same period of validity as the period determined in this Act in respect of the licence to which the competency certificate relates, unless the competency certificate is terminated or renewed in accordance with the provisions of this Act.

[Sub-s. (2) substituted by s. 9 (b) of Act 28 of 2006.]

(3) A competency certificate relating to a muzzle loading firearm lapses after ten years from its date of issue, unless the competency certificate is terminated or renewed in accordance with the provisions of this Act.

[Sub-s. (3) added by s. 9 (c) of Act 28 of 2006.]

## **10A Renewal of competency certificate**

(1) Any holder of a competency certificate contemplated in subsection (2) and section 9 (1) and who wishes to renew the competency certificate must apply in the prescribed form to the Registrar for its renewal together with an application for the renewal of the licence to which the competency certificate relates.

(2) Any holder of a competency certificate relating to a muzzle loading firearm who wishes to renew the competency certificate must apply at least 90 days before the date of expiry of the competency certificate in the prescribed form to the Registrar for its renewal.

(3) The application for renewal of a competency certificate must be-

- (a) accompanied by a declaration under oath or solemn statement made by the applicant in the prescribed form confirming that the applicant still conforms to the requirements of section 9 (2); and
- (b) delivered by the applicant to the Designated Firearms Officer responsible for the area in which the applicant ordinarily resides or in which the applicant's business is situated, as the case may be.

(4) No application for the renewal of a competency certificate may be granted unless the applicant satisfies the Registrar that he or she still complies with the requirements for the issuing of a competency certificate in terms of this Act.

(5) The Registrar may grant or refuse the renewal of a competency certificate on the strength of the information and declaration provided by the applicant, but nothing in this section prevents the Registrar from exercising his or her powers in terms of section 124 (3) (a), prior to granting or refusing the application.

(6) If an application for the renewal of a competency certificate has been lodged within the period provided for in subsection (2), the competency certificate remains valid until the application is decided.

(7) For the purposes of the renewal of a competency certificate an applicant does not have to comply again with the provisions of section 9 (2) (q) and (r), unless the Registrar in a specific case, on good grounds being present, requires otherwise.

[S. 10A added by s. 10 of Act 28 of 2006.]

## **CHAPTER 6 LICENCE TO POSSESS FIREARM (ss 11-30)**

### **11 Separate licence in respect of each firearm**

(1) The Registrar must issue a separate licence in respect of each firearm licensed in terms of this Chapter.

(2) Despite subsection (1), the Registrar may issue to a person a single document containing licences in respect of more than one firearm.

## 12 Additional licences

(1) The Registrar may issue an additional licence in respect of a firearm contemplated in section 13, 14, 15 and 16 to every person who resides on the same premises as the holder of the licence in respect of the firearm in question.

(2) Every holder of an additional licence must comply with all the requirements for the issue of a licence in respect of the firearm in question.

(3) If the holder of an additional licence contemplated in subsection (1) moves from the premises in question, such additional licence lapses and the person to whom such licence was issued must return that licence to the Registrar forthwith.

## 13 Licence to possess firearm for self-defence

(1) A firearm in respect of which a licence may be issued in terms of this section is any-

- (a) shotgun which is not fully or semi-automatic; or
- (b) handgun which is not fully automatic.

(2) The Registrar may issue a licence under this section to any natural person who-

- (a) needs a firearm for self-defence; and
- (b) cannot reasonably satisfy that need by means other than the possession of a firearm.

(3) No person may hold more than one licence issued in terms of this section.

(4) A firearm in respect of which a licence has been issued in terms of this section may be used where it is safe to use the firearm and for a lawful purpose.

## 14 Licence to possess restricted firearm for self-defence

(1) For purposes of this Act, a restricted firearm is any-

- (a) semi-automatic rifle or shotgun, which cannot readily be converted into a fully automatic firearm; or
- (b) firearm declared by the Minister, by notice in the *Gazette*, to be a restricted firearm.

(2) A notice contemplated in subsection (1) (b) must be tabled in Parliament at least 14 days before publication thereof if Parliament is then sitting, and if Parliament is not sitting, within seven days after the commencement of the next sitting.

(3) A notice contemplated in subsection (1) (b) will be of full force and effect until withdrawn by the Minister or by a resolution of Parliament.

(4) The Registrar may issue a licence in terms of this section to any natural person who shows that a firearm contemplated in section 13 (1) will not provide sufficient protection, and who submits reasonable information to motivate the need for a restricted firearm for self-defence purposes.

(5) No person may hold more than one licence issued in terms of this section.

(6) A firearm in respect of which a licence has been issued in terms of this section may be used where it is safe to use the firearm and for a lawful purpose.

## 15 Licence to possess firearm for occasional hunting and sports-shooting

(1) A firearm in respect of which a licence may be issued in terms of this section is any-

- (a) handgun which is not fully automatic;

- (b) rifle or shotgun which is not fully or semi-automatic; or
- (c) barrel, frame or receiver of a handgun, rifle or shotgun contemplated in paragraph (a) or (b),

and which is not a restricted firearm.

(2) The Registrar may issue a licence in terms of this section to any natural person who is an occasional hunter or occasional sports person.

(3) (a) Subject to paragraphs (b), (c) and (d), no person may hold more than four licences issued in terms of this section.

(b) If a person holds a licence issued in terms of section 13, he or she may only hold three licences issued in terms of this section.

(c) A person may not hold more than one licence in respect of a handgun contemplated in subsection (1) (a).

(d) If a person contemplated in paragraph (a) holds any additional licences contemplated in section 12 in respect of a firearm contemplated in this section and section 13, the number of licences which that person may hold must be reduced by the number of such additional licences held.

(4) A firearm in respect of which a licence has been issued in terms of this section may be used where it is safe to use the firearm and for a lawful purpose.

## **16 Licence to possess firearm for dedicated hunting and dedicated sports-shooting**

(1) A firearm in respect of which a licence may be issued in terms of this section is any-

- (a) handgun which is not fully automatic;
- (b) rifle or shotgun which is not fully automatic;
- (c) semi-automatic shotgun manufactured to fire no more than five shots in succession without having to be reloaded; or

[Para. (c) substituted by s. 4 of Act 43 of 2003.]

**[NB:** Para. (c) has been deleted by s. 11 of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation.]

- (d) barrel, frame or receiver of a handgun, rifle or shotgun contemplated in paragraph (a), (b) or (c).

(2) The Registrar may issue a licence in terms of this section to any natural person who is a dedicated hunter or dedicated sports person if the application is accompanied by a sworn statement or solemn declaration from the chairperson of an accredited hunting association or sports-shooting organisation, or someone delegated in writing by him or her, stating that the applicant is a registered member of that association.

(3) A firearm in respect of which a licence has been issued in terms of this section may be used where it is safe to use the firearm and for a lawful purpose.

(4) Every accredited hunting association and sports-shooting organisation must-

- (a) keep a register which contains such information as may be prescribed; and
- (b) submit an annual report to the Registrar which contains such information as may be prescribed.

## **16A Licence to possess firearm for professional hunting**

(1) A firearm in respect of which a licence may be issued in terms of this section is any-

- (a) handgun which is not fully automatic;
- (b) rifle or shotgun which is not fully automatic; or

- (c) barrel, frame or receiver of a handgun, rifle or shotgun contemplated in paragraph (a) or (b).

(2) The Registrar may issue a licence in terms of this section to any natural person who is a professional hunter if the application is accompanied by a sworn statement or solemn declaration from the chairperson of an accredited professional hunting association, or someone delegated in writing by him or her, stating that the applicant is a professional hunter and registered member of that association.

(3) A firearm in respect of which a licence has been issued in terms of this section may be used by the professional hunter for his or her private use and professional hunting purposes where it is safe to use the firearm and for a lawful purpose.

(4) Every accredited professional hunting association must-

- (a) keep a register which contains such information as may be prescribed; and
- (b) submit an annual report to the Registrar which contains such information as may be prescribed.

[S. 16A inserted by s. 12 of Act 28 of 2006.]

## **17 Licence to possess firearm in private collection**

(1) (a) A firearm which may be possessed in a private collection is any firearm approved for collection by an accredited collector's association, based upon such historical, technological, scientific, educational, cultural, commemorative, investment, rarity, thematic or artistic value determined by the association.

(b) Where a firearm is approved for collection as a heritage item as defined in the National Heritage Resources Act, 1999 (Act 25 of 1999), such approval is subject to confirmation by the South African Heritage Resources Agency or any of its appointed agents.

(1A) Despite section 4, such prohibited or restricted firearm as may be prescribed may be licensed under this section.

(2) The Registrar may issue a licence in terms of this section to a private collector if the application is accompanied by a sworn statement or solemn declaration from the chairperson of an accredited collectors association, or someone delegated in writing by him or her, stating that the applicant is a registered member of that association and qualifies to collect the firearm, prohibited firearm or restricted firearm.

(3) The holder of a licence issued in terms of this section-

- (a) must store the firearm at the place specified in the licence; and
- (b) may only display the firearm in accordance with such safety measures as may be prescribed.

(3A) Before a prohibited or restricted firearm is stored in terms of subsection (3) (a), it must undergo such reversible non-damaging procedure as may be prescribed in order to ensure that no cartridge can be loaded into or discharged from that firearm.

(4) A firearm in respect of which a licence has been issued in terms of this section may be used where it is safe to use the firearm and for a lawful purpose.

[S. 17 substituted by s. 13 of Act 28 of 2006.]

## **18 Permit to possess ammunition in private collection**

(1) Ammunition which may be possessed in a private collection is any ammunition approved for collection by an accredited collectors association.

(2) (a) The Registrar may, subject to such conditions as may be prescribed, issue a permit in terms of this section to a private collector if the application is accompanied by a sworn statement or solemn declaration from the chairperson of an accredited collectors association, or someone delegated in writing by him or her, stating that the applicant is a registered member of that association.

[Para. (a) substituted by s. 5 of Act 43 of 2003.]

(b) A collector contemplated in paragraph (a) may not possess more than 200 rounds of ammunition of any particular calibre unless the Registrar approves the possession of a higher number in writing.

(3) The holder of a permit issued in terms of this section may not discharge any ammunition in his or her collection.

(4) The holder of a permit issued in terms of this section-

(a) must store the ammunition at the place specified in the permit; and

(b) may only display the ammunition in accordance with such safety measures as may be prescribed.

(5) Despite section 4, the holder of a permit issued in terms of this section may possess projectiles, rifle grenades and cartridges manufactured to be discharged by prohibited firearms if the propellant, high explosive and primer of the projectiles, rifle grenades and cartridges have been removed or deactivated.

[Sub-s. (5) substituted by s. 14 of Act 28 of 2006.]

## **19 Licence to possess a firearm, and permit to possess ammunition, in public collection**

(1) The Registrar may issue a licence to possess a firearm in a public collection, a permit to possess ammunition in a public collection, or both such permit and licence, to a public collector or an accredited museum.

[Sub-s. (1) substituted by s. 15 (a) of Act 28 of 2006.]

(2) Despite section 4-

(a) such prohibited and restricted firearm as may be prescribed may be licensed under this section; and

[Para. (a) substituted by s. 15 (b) of Act 28 of 2006.]

(b) the holder of a permit issued in terms of this section may possess projectiles, rifle grenades and cartridges manufactured to be discharged by prohibited firearms if the propellant, high explosive and primer of the projectiles, rifle grenades and cartridges have been removed or deactivated.

[Para. (b) substituted by s. 15 (b) of Act 28 of 2006.]

(3) The holder of a permit contemplated in subsection (1) may not possess more than 200 rounds of ammunition of any particular calibre unless the Registrar approves the possession of a higher number in writing.

(4) A firearm, prohibited firearm and restricted firearm in respect of which a licence has been issued in terms of this section and ammunition in respect of which a permit has been issued in terms of this section, may only be displayed-

(a) in an accredited museum or by an accredited public collector; and

(b) in accordance with such safety measures as may be prescribed.

[Sub-s. (4) substituted by s. 15 (c) of Act 28 of 2006.]

(4A) Before a prohibited or restricted firearm is displayed in terms of subsection (4), it must undergo such reversible non-damaging procedure as may be prescribed in order to ensure that no cartridge can be loaded into or discharged from that firearm.

[Sub-s. (4A) inserted by s. 15 (d) of Act 28 of 2006.]

(5) A firearm in respect of which a licence has been issued in terms of this section may only be used on an accredited shooting range in accordance with the rules of that shooting range and in accordance with such conditions as the Registrar may impose.

(6) The holder of a permit issued in terms of this section may not discharge any ammunition in his or her collection.

## 20 Licence to possess firearm for business purposes

(1) (a) A firearm in respect of which a licence may be issued in terms of this section is any firearm other than a prohibited firearm.

(b) Despite paragraph (a), a licence in respect of a prohibited firearm may be issued to a person contemplated in subsection (2) (c) but such person may only provide the prohibited firearm for use in theatrical, film or television productions and then only if the prior written approval of the Registrar has been obtained and on such conditions as the Registrar may impose.

(2) The Registrar may issue a licence in terms of this section to-

(a) a security service provider;

[Para. (a) substituted by s. 6 (a) of Act 43 of 2003.]

(b) a person who is accredited to provide training in the use of firearms;

(c) a person who is accredited to provide firearms for use in theatrical, film or television productions;

(d) a person who is accredited as a game rancher;

[Para. (d) substituted by s. 6 (b) of Act 43 of 2003.]

(e) a person who is accredited to conduct business in hunting; or

(f) any person who is accredited to use firearms for such other business purpose as the Registrar may determine.

(3) A licence issued in terms of this section must specify the business purpose in respect of which it is issued.

(4) A firearm in respect of which a licence was issued in terms of this section may only be used as specified in the licence.

(5) (a) The holder of a licence issued in terms of this section may only provide the firearm for use by another person subject to such conditions as may be prescribed.

(b) A security service provider which holds a licence to possess a firearm for business use may only provide the firearm to a security officer in its service who holds a competency certificate.

[Para. (b) substituted by s. 6 (c) of Act 43 of 2003.]

(6) Every holder of a licence issued in terms of this section must-

(a) keep a register of all firearms in its possession containing such information as may be prescribed; and

(b) store and transport the firearms as may be prescribed.

(7) The holder of a licence issued in terms of this Act must, at the request of a police official, produce for inspection-

(a) any firearm and ammunition in its possession or under its control; and

(b) every licence issued in terms of this section.

## 21 Temporary authorisation to possess firearm

(1) The Registrar may issue a temporary authorisation to possess a firearm to any person, including a non-citizen-

- (a) for such period as the Registrar may determine; and
- (b) subject to such conditions as may be prescribed and imposed by the Registrar.

(2) The Registrar may at any time withdraw an authorisation if any condition contemplated in subsection (1) (b) is not complied with.

**[NB:** Sub-s. (2) has been substituted by s. 16 of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDLEX.]

(3) The Office of the Central Firearms Register must keep a record containing such information as may be prescribed in respect of all authorisations issued in terms of this section.

(4) The Registrar must submit an annual report to the Minister containing such information as may be prescribed in respect of all authorisations issued in terms of this section.

(5) A firearm in respect of which an authorisation has been issued in terms of this section may be used only-

- (a) if the Registrar by endorsement on the authorisation permits such use; and
- (b) in accordance with such conditions as may be prescribed and imposed by the Registrar.

(6) A firearm in respect of which an authorisation has been issued in terms of this section may be disposed of only with the written consent of the Registrar and subject to such conditions as he or she may impose.

## **22 Holder of licence may allow another person to use firearm**

Despite anything to the contrary in this Act but subject to section 120 (5), any person who is at least 21 years of age and the holder of a licence to possess a firearm issued in terms of this Act may allow any other person to use that firearm while under his or her immediate supervision where it is safe to use the firearm and for a lawful purpose.

**[NB:** S. 22 has been substituted by s. 17 of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDLEX.]

## **23 Identification marks on firearms**

(1) No firearm licence may be issued unless the firearm bears the manufacturer's serial number or any other mark by which the firearm can be identified.

(2) The identification number must be stamped and the mark affixed in the prescribed manner on the barrel and the frame, or the barrel and the receiver, of the firearm.

[Sub-s. (2) substituted by s. 7 of Act 43 of 2003.]

(3) Despite subsections (1) and (2), the Registrar may, on good cause shown by the applicant and subject to such conditions as the Registrar may impose, issue a licence in respect of a firearm which does not comply with the provisions of those subsections.

(4) The Registrar may direct that any firearm in respect of which an application for a licence has been made, be marked with such additional identification mark as he or she may determine.

(5) No person may erase, alter or in any other manner tamper with the manufacturer's serial number or any other identification mark on a firearm with the intention of changing the identity of the firearm.



(6) A person who is in possession of a firearm of which the manufacturer's serial number or other identification mark has been erased, altered or in any other manner tampered with or has become illegible, must forthwith notify the Registrar of such fact.

(7) The Registrar may direct in writing that such firearm be marked with such identification mark as he or she may determine.

#### **24 Renewal of firearm licences**

(1) The holder of a licence issued in terms of this Chapter who wishes to renew the licence must at least 90 days before the date of expiry of the licence apply to the Registrar for its renewal.

(2) The application must be-

- (a) accompanied by such information as may be prescribed; and
- (b) delivered to the Designated Firearms Officer responsible for the area in which the applicant ordinarily resides or in which the applicant's business is, as the case may be.

(3) No application for the renewal of a licence may be granted unless the applicant shows that he or she has continued to comply with the requirements for the licence in terms of this Act.

(4) If an application for the renewal of a licence has been lodged within the period provided for in subsection (1), the licence remains valid until the application is decided.

#### **25 Notification of change of address**

(1) The holder of a licence, permit or authorisation issued in terms of this Chapter must in writing notify the Registrar of any change in his or her physical or postal address within 30 days of such change occurring.

(2) The Registrar must within 30 days after receiving a notice referred to in subsection (1) acknowledge receipt of that notice in writing.

#### **26 Notification of change of circumstances**

(1) The holder of a licence, permit or authorisation issued in terms of this Chapter must notify the Registrar in writing within 30 days if there is any change with regard to any information which was submitted in respect of the application for the issue of that licence, permit or authorisation.

(2) The Registrar must within 30 days after receiving a notice referred to in subsection (1) acknowledge receipt of that notice in writing.

#### **27 Period of validity of licence or permit**

A licence or permit mentioned in Column 2 of the Table below remains valid for the period mentioned in Column 3 of that Table.

**TABLE  
PERIOD OF VALIDITY OF LICENCE OR PERMIT**

<b>Section number</b>	<b>Type of licence or permit</b>	<b>Period of validity</b>
13	Licence to possess firearm for self-defence	Five years
14	Licence to possess restricted firearm for self-defence	Two years
15	Licence to possess firearm for occasional hunting and sports-shooting	10 years



16	Licence to possess firearm for dedicated hunting and dedicated sports-shooting	10 years
16A	Licence to possess a firearm for professional hunting	10 years
17	Licence to possess firearm in private collection	10 years
18	Permit to possess ammunition in private collection	10 years
19	Licence to possess firearm, and permit to possess ammunition, in public collection	10 years
20	Licence to possess firearm for business purposes: Business as game rancher and in hunting	10 years
20	Licence to possess firearm for business purposes: Business other than as game rancher and in hunting	Five years

[S. 27 substituted by s. 18 of Act 28 of 2006.]

## 28 Termination of firearm licence

(1) A licence issued in terms of this Chapter terminates-

- (a) upon the expiry of the relevant period contemplated in section 27, unless renewed in terms of section 24;
- (b) if surrendered by the holder of the licence to the Registrar;
- (c) if the holder of the licence becomes or is declared unfit to possess a firearm in terms of section 102 or 103; or
- (d) if it is cancelled in terms of this Act.

(2) The Registrar may, by notice in writing, cancel a licence issued in terms of this Chapter if the holder of the licence-

- (a) no longer qualifies to hold the licence; or
- (b) has contravened or failed to comply with any provision of this Act or any condition specified in the licence.

(3) A notice contemplated in subsection (2) may only be issued if the Registrar has-

- (a) given the holder of the licence 30 days' notice in writing to submit written representations as to why the licence should not be cancelled; and
- (b) duly considered any representations received and all the facts pertaining to the matter.

(4) (a) If a notice contemplated in subsection (2) is issued, the former holder of the licence must dispose of the firearm in question through a dealer or in such manner as the Registrar may determine.

(b) The disposal must take place within 60 days after receipt of the notice.

(5) If the firearm is not disposed of within 60 days, it must be forfeited to the State and the former holder of the licence must surrender it immediately at such place and in such manner as the Registrar may determine.

(6) Any period contemplated in this section may be extended by the Registrar on good cause shown.

## 29 Defaced, lost or stolen licences, permits and authorisations

(1) If a licence, permit or authorisation issued in terms of this Chapter is lost or stolen, the holder of the licence, permit or authorisation must inform the Registrar of such loss or theft within 24 hours of the discovery of the loss or theft.

(2) If a licence, permit or authorisation issued in terms of this Chapter is defaced, lost or stolen, the holder of the licence, permit or authorisation must within seven days of the

discovery of the defacement, loss or theft apply to the Registrar in the prescribed form for a copy of the licence, permit or authorisation.

### **30 Central firearms database**

The Registrar must establish and maintain such central firearms database as may be prescribed.

## **CHAPTER 7 LICENCES ISSUED TO PARTICULAR CATEGORIES OF PERSONS - DEALERS, MANUFACTURERS AND GUNSMITHS (ss 31-72)**

### *Part 1 Dealers (ss 31-44)*

### **31 Prohibition of unlicensed trading in firearms, muzzle loading firearms or ammunition**

(1) No person may trade in any firearm, muzzle loading firearm or ammunition without a dealer's licence.

(2) Subject to subsection (3), a person who is not a dealer may dispose of a firearm, muzzle loading firearm or ammunition only through a dealer or as otherwise provided for in this Act.

(3) A person who wishes to sell or donate a firearm, or a muzzle loading firearm, or ammunition in a collection, to a willing buyer or donee, as the case may be, may do so without the intervention of a dealer, subject to the provisions relating to possession thereof in the Act, and such conditions as may be prescribed.

[S. 31 substituted by s. 19 of Act 28 of 2006.]

### **32 Requirements for dealer's licence**

(1) A dealer's licence may be issued to a person who is a fit and proper person to trade in firearms or ammunition.

(2) Any natural person who engages in trading on behalf of a dealer must hold a competency certificate to trade in firearms and ammunition.

### **33 Conditions imposed on dealer**

The Minister may prescribe-

- (a) conditions in respect of the issue of a dealer's licence which the Registrar may impose on a dealer; and
- (b) specifications in respect of the business premises of a dealer.

### **34 Dealer's licence**

The dealer's licence must-

- (a) specify the premises in respect of which the licence is issued;
- (b) specify the conditions contemplated in section 33; and
- (c) contain such other information as may be prescribed.

### **35 Renewal of dealer's licence**

(1) The holder of a dealer's licence who wishes to renew the licence must at least 90 days before the date of expiry of the licence apply in the prescribed form to the Registrar for its renewal.

(2) The application must be-

- (a) accompanied by such information as may be prescribed; and
- (b) delivered to the Designated Firearms Officer responsible for the area in which the applicant's business premises are situated.

(3) No application for the renewal of a dealer's licence may be granted unless the applicant satisfies the Registrar that he or she still complies with the requirements for the licence in terms of this Act.

(4) If an application for the renewal of a dealer's licence has been lodged within the period provided for in subsection (1), the licence remains valid until the application is decided.

### **36 Temporary authorisation to trade in firearms and ammunition on premises other than those specified in dealer's licence**

(1) The Registrar may issue a temporary authorisation to a dealer to trade in firearms and ammunition at premises other than those specified in the dealer's licence.

(2) The Minister may prescribe conditions which the Registrar may impose on a licensed dealer in respect of a temporary authorisation issued in terms of this section.

(3) A temporary authorisation to trade in firearms and ammunition must specify the-

- (a) premises in respect of which it is issued;
- (b) period for which it is issued; and
- (c) conditions subject to which it is issued.

(4) The Registrar may at any time, by written notice, withdraw an authorisation issued in terms of this section.

(5) The Office of the Central Firearms Register must keep a record of prescribed information in respect of all authorisations issued in terms of this section.

(6) A dealer to whom a temporary authorisation has been issued must comply with the requirements of subsection (3).

### **37 Change of premises**

(1) A dealer may apply to the Registrar in the prescribed manner for removal of the business from the premises specified in the licence to different premises.

(2) On receipt of the application referred to in subsection (1), the Registrar may endorse the licence or issue a new licence permitting the dealer to conduct the business from the new premises on such conditions as the Registrar may impose.

### **38 Notification of change of circumstances**

(1) The holder of a dealer's licence must notify the Registrar in writing within 30 days if there is any change with regard to any information which was submitted in respect of the application for the issue of that licence.

(2) The Registrar must within 30 days after receiving a notice referred to in subsection (1) acknowledge receipt of that notice in writing.

### **39 Duties of dealer**

(1) A dealer may trade in firearms or ammunition only on premises specified in the dealer's licence.

(2) A dealer may not permit any person to trade in firearms or ammunition on his or her behalf unless that person is in possession of the appropriate competency certificate.

(3) A dealer must keep such registers as may be prescribed and containing such information as may be prescribed at the premises specified in the dealer's licence.

(4) A dealer must keep his or her dealer's licence on the premises specified in the licence.

(5) A dealer must, at the request of any police official, produce for inspection-

(a) any firearms or ammunition that the dealer may have in stock;

(b) his or her dealer's licence; and

(c) any register or electronic data kept by the dealer in terms of Part 1 of this Chapter.

(6) A dealer must establish and maintain a workstation which links the registers referred to in subsection (3) to the central dealers database in the prescribed manner.

(7) The Registrar may, on good cause shown on application by a dealer, exempt the dealer from the duties referred to in subsection (6).

(8) Any dealer exempted as contemplated in subsection (7) must submit weekly returns, completed in the prescribed form, to the Office of the Central Firearms Register.

(9) A dealer must comply with any condition imposed under section 33 and specification prescribed under that section.

#### **40 Establishment of centralised dealers' database**

The Registrar must establish and maintain such central dealers' database as may be prescribed.

#### **41 Suspension of dealer's licence**

(1) The Registrar may suspend a dealer's licence if the Registrar has information in a sworn statement or on solemn declaration that the dealer has committed an offence in terms of this Act for which a sentence of imprisonment for a period of five years or more may be imposed.

(2) A licence may be suspended for not more than seven days without affording the holder of the licence a hearing.

(3) A suspension may endure for a period longer than seven days if the-

(a) holder has been afforded an opportunity to make written representations to the Registrar;

(b) Registrar has given due consideration to the representations;

(c) Registrar deems it necessary in order to achieve the objects of this Act; and

(d) suspension has been confirmed by a court.

(4) A dealer may not trade for the period during which the licence is suspended.

#### **42 Termination of dealer's licence**

(1) A dealer's licence terminates-

(a) upon the expiry of one year from the date on which it was issued;

**[NB: Para. (a) has been substituted by s. 20 of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDLEX.]**

(b) if surrendered by the dealer to the Registrar;

(c) if the holder of the licence becomes or is declared unfit to possess a firearm in terms of section 102 or 103; or

(d) if cancelled in terms of this Act.

(2) The Registrar may, by written notice, cancel a dealer's licence if the holder of the licence-

- (a) no longer qualifies to hold the licence; or
- (b) has contravened or failed to comply with any provision of this Act or any condition specified in the licence.

(3) A notice contemplated in subsection (2) may only be issued if the Registrar has-

- (a) given the holder 30 days notice in writing to submit written representations as to why the licence should not be cancelled; and
- (b) duly considered any representations received and all the facts pertaining to the matter.

(4) (a) If a notice contemplated in subsection (2) is issued, the former holder of the licence must dispose of any firearms and ammunition in his or her possession through a dealer or in such manner as the Registrar may determine.

(b) The disposal must take place within 60 days after receipt of the notice.

(5) If the firearms and ammunition are not disposed of within 60 days they must be forfeited to the State and the former holder of the licence must surrender them immediately at such place and in such manner as the Registrar may determine.

(6) Any period contemplated in this section may be extended by the Registrar on good cause shown.

#### **43 Application of other laws**

A licence issued in terms of Part 1 of this Chapter does not exempt the holder of the licence from having to comply with the provisions of any other law.

#### **44 Defaced, lost or stolen licences**

(1) If a dealer's licence is lost or stolen, the holder of the licence must inform the Registrar within 24 hours of the discovery of the loss or theft.

(2) If a dealer's licence is defaced, lost or stolen, the holder of the licence must within seven days of the discovery of the defacement, loss or theft apply to the Registrar in the prescribed manner for a copy of the licence.

### ***Part 2*** ***Manufacturers (ss 45-58)***

#### **45 Prohibition of unlicensed manufacture of firearms and ammunition**

(1) No person may manufacture any firearm or ammunition without a manufacturer's licence.

(2) A manufacturer may only sell firearms and ammunition to a dealer or to the State, and may export firearms and ammunition subject to section 73 (1).

**[NB: S. 45 has been substituted by s. 21 of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDLEX.]**

#### **46 Requirements for manufacturer's licence**

(1) A manufacturer's licence may be issued to a person who is a fit and proper person to manufacture firearms or ammunition.

- (2) The Registrar may only issue a manufacturer's licence to-
- (a) a manufacturer of firearms if the firearms are manufactured in a factory registered in terms of the Occupational Health and Safety Act, 1993 (Act 85 of 1993); or
  - (b) a manufacturer of ammunition if the ammunition is manufactured in a factory licensed in terms of the Explosives Act, 1956 (Act 26 of 1956).

#### **47 Conditions imposed on manufacturer**

The Minister may prescribe-

- (a) conditions in respect of the issue of a manufacturer's licence which the Registrar may impose on a manufacturer; and
- (b) specifications in respect of the business premises of a manufacturer.

#### **48 Manufacturer's licence**

A manufacturer's licence must-

- (a) specify the premises in respect of which the licence is issued;
- (b) specify the conditions contemplated in section 47 which are to apply; and
- (c) contain such other information as may be prescribed.

#### **49 Renewal of manufacturer's licence**

(1) The holder of a manufacturer's licence who wishes to renew the licence must apply to the Registrar for its renewal in the prescribed form at least 90 days before the date of expiry of the licence.

(2) The application must be-

- (a) accompanied by such information as may be prescribed; and
- (b) delivered to the Designated Firearms Officer responsible for the area in which the applicant's business premises are situated.

(3) No application for renewal of a manufacturer's licence may be granted unless the applicant satisfies the Registrar that he or she has continued to comply with the requirements for the licence in terms of this Act.

(4) If an application for the renewal of a manufacturer's licence has been lodged within the period provided for in subsection (1), the licence remains valid until the application is decided.

#### **50 Temporary authorisation to display firearms and ammunition on premises other than those specified in manufacturer's licence**

(1) The Registrar may issue a temporary authorisation to a manufacturer to display firearms and ammunition at premises other than those specified in the manufacturer's licence.

(2) The Minister may prescribe conditions which the Registrar may impose on a manufacturer in respect of a temporary authorisation issued in terms of this section.

(3) A temporary authorisation to display firearms and ammunition must specify-

- (a) the premises in respect of which it is issued;
- (b) the period for which it is issued; and
- (c) any conditions subject to which it is issued.

(4) The Registrar may at any time, by written notice, withdraw an authorisation issued in terms of this section.

(5) The Office of the Central Firearms Register must keep a record of prescribed information in respect of all authorisations issued in terms of this section.

(6) A manufacturer to whom a temporary authorisation has been issued must comply with the requirements of subsection (3).

### **51 Change of premises**

(1) A manufacturer may apply to the Registrar in the prescribed manner for removal of the business from the premises specified in the licence to different premises.

(2) On receipt of the application referred to in subsection (1), the Registrar may endorse the manufacturer's licence or issue a new licence permitting the manufacturer to conduct business from the new premises on such conditions as the Registrar may impose.

(3) Section 46 (2) applies with the necessary changes to an application in terms of this section.

### **52 Notification of change of circumstances**

(1) The holder of a manufacturer's licence must notify the Registrar in writing within 30 days if there is any change with regard to any information which was submitted in respect of the application for the issue of that licence.

(2) The Registrar must within 30 days after receiving a notice referred to in subsection (1) acknowledge receipt of that notice in writing.

### **53 Duties of manufacturer**

(1) A manufacturer may manufacture firearms or ammunition only on premises specified in the licence.

(2) A manufacturer must apply or affix such serial number or any other mark to any firearm manufactured by the manufacturer as may be prescribed.

(3) A manufacturer must keep registers containing such information as may be prescribed at the premises specified in the manufacturer's licence.

(4) A manufacturer must keep his or her manufacturer's licence on the premises specified in the licence.

- (5) A manufacturer must, at the request of any police official, produce for inspection-
- (a) any firearms or ammunition that the manufacturer may have in stock;
  - (b) his or her manufacturer's licence; and
  - (c) any register or electronic data kept by the manufacturer in terms of Part 2 of this Chapter.

(6) A manufacturer must in the prescribed manner establish and maintain a workstation which links the registers referred to in subsection (3) to the central manufacturers' database.

(7) A manufacturer must comply with the conditions specified in the manufacturer's licence.

### **54 Establishment of centralised manufacturers' database**

The Registrar must establish and maintain such central manufacturers' database as may be prescribed.

### **55 Suspension of manufacturer's licence**

(1) The Registrar may suspend a manufacturer's licence if the Registrar has information in a sworn statement or on solemn declaration that the manufacturer has committed an offence in terms of this Act for which a sentence of imprisonment for a period of five years or more may be imposed.

(2) A licence may be suspended for not more than seven days without affording the holder of the licence a hearing.

(3) A suspension may endure for a period longer than seven days if the-

- (a) holder has been afforded an opportunity to make written representations to the Registrar;
- (b) Registrar has given due consideration to the representations;
- (c) Registrar deems it necessary in order to achieve the objects of this Act; and
- (d) suspension has been confirmed by a court.

(4) A manufacturer may not conduct business as a manufacturer for the period during which the licence is suspended.

## 56 Termination of manufacturer's licence

(1) A manufacturer's licence terminates-

(a) upon the expiry of one year from the date on which it was issued;

**[NB: Para. (a) has been substituted by s. 22 of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDLEX.]**

(b) if surrendered by the manufacturer to the Registrar;

(c) if the manufacturer becomes or is declared unfit to possess a firearm in terms of section 102 or 103; or

(d) if cancelled in terms of this Act.

(2) The Registrar may, by written notice, cancel a manufacturer's licence if the holder of the licence-

(a) no longer qualifies to hold the licence; or

(b) has contravened or failed to comply with any provision of this Act or any condition specified in the licence.

(3) A notice contemplated in subsection (2) may only be issued if the Registrar has-

(a) given the holder 30 days' notice in writing to submit written representations as to why the licence should not be cancelled; and

(b) duly considered any representations received and all the facts pertaining to the matter.

(4) (a) If a notice contemplated in subsection (2) is issued, the former holder of the licence must dispose of any firearms and ammunition in his or her possession through a dealer or in such manner as the Registrar may determine.

(b) The disposal must take place within 60 days after receipt of the notice.

(5) If the firearms and ammunition are not disposed of within 60 days they must be forfeited to the State and the former holder of the licence must surrender them immediately at such place and in such manner as the Registrar may determine.

(6) Any period contemplated in this section may be extended by the Registrar on good cause shown.

## 57 Application of other laws



A licence issued in terms of Part 2 of this Chapter does not exempt the holder of the licence from having to comply with the provisions of any other law.

### **58 Defaced, lost or stolen licences**

(1) If a manufacturer's licence is lost or stolen, the holder of the licence must inform the Registrar within 24 hours of the discovery of the loss or theft.

(2) If a manufacturer's licence is defaced, lost or stolen, the holder of the licence must within seven days of the discovery of the defacement, loss or theft apply to the Registrar in the prescribed manner for a copy of the licence.

## **Part 3 Gunsmiths (ss 59-72)**

### **59 Prohibition of certain work**

No person may, without being the holder of a gunsmith's licence or being registered as an apprentice to such holder-

- (a) alter the mechanism of a firearm so as to enable the discharging of more than one shot with a single depression of the trigger;
- (b) alter the calibre of a firearm;
- (c) alter the barrel length of a firearm;
- (d) alter or remove the serial number or any other identifying mark of a firearm; or
- (e) perform such other work as may be prescribed.

[S. 59 amended by s. 8 of Act 43 of 2003.]

### **60 Requirement for gunsmith's licence**

A gunsmith's licence may be issued to a person who is a fit and proper person to perform the work contemplated in section 59.

### **61 Conditions imposed on gunsmith**

The Minister may prescribe-

- (a) conditions in respect of the issue of a gunsmith's licence which the Registrar may impose on a licensed gunsmith; and
- (b) specifications in respect of the business premises of a gunsmith.

### **62 Gunsmith's licence**

A gunsmith's licence must-

- (a) specify the premises in respect of which the licence is issued;
- (b) specify any of the conditions contemplated in section 61 which are to apply; and
- (c) contain such other information as may be prescribed.

### **63 Renewal of gunsmith's licence**

(1) The holder of a gunsmith's licence who wishes to renew the licence must apply to the Registrar for its renewal at least 90 days before the date of expiry of the licence.

(2) The application must be-

- (a) accompanied by such information as may be prescribed; and
- (b) delivered to the Designated Firearms Officer responsible for the area in which the applicant's business premises are situated.

(3) No application for renewal of a gunsmith's licence may be granted unless the applicant satisfies the Registrar that he or she has continued to comply with the requirements for the licence in terms of this Act.

(4) If an application for the renewal of a gunsmith's licence has been lodged within the period provided for in subsection (1), the licence remains valid until the application is decided.

#### **64 Temporary authorisation to conduct business as gunsmith on premises other than those specified in gunsmith's licence**

(1) The Registrar may issue a temporary authorisation to a gunsmith to conduct business as a gunsmith at premises other than those specified in the gunsmith's licence.

(2) The Minister may prescribe conditions which the Registrar may impose on a gunsmith in respect of a temporary authorisation issued in terms of this section.

(3) A temporary authorisation to conduct business as a gunsmith must specify the-

- (a) premises in respect of which it is issued;
- (b) period for which it is issued; and
- (c) conditions subject to which it is issued.

(4) The Registrar may at any time, by written notice, withdraw an authorisation issued in terms of this section.

(5) The Office of the Central Firearms Register must keep a record of prescribed information in respect of all authorisations issued in terms of this section.

(6) A gunsmith to whom a temporary authorisation has been issued must comply with the requirements of subsection (3).

#### **65 Change of premises**

(1) A gunsmith may apply to the Registrar in the prescribed manner for removal of the business from the premises specified in the licence to different premises.

(2) On receipt of the application referred to in subsection (1), the Registrar may endorse the gunsmith's licence or issue a new licence permitting the gunsmith to conduct the business from the new premises on such conditions as the Registrar may impose.

#### **66 Notification of change of circumstances**

(1) The holder of a gunsmith's licence must notify the Registrar in writing within 30 days if there is any change with regard to any information which was submitted in respect of the application for the issue of that licence.

(2) The Registrar must within 30 days after receiving a notice referred to in subsection (1) acknowledge receipt of that notice in writing.

#### **67 Duties of gunsmith**

(1) A gunsmith may conduct business as a gunsmith only on premises specified in the gunsmith's licence.

(2) A gunsmith must keep registers containing such information as may be prescribed at the premises specified in the gunsmith's licence.

(3) A gunsmith must keep his or her gunsmith's licence on the premises specified in the licence.

(4) A gunsmith must, at the request of any police official, produce for inspection-

- (a) any firearms or ammunition that the gunsmith may have in his or her possession;
- (b) his or her gunsmith's licence; and
- (c) any register or electronic data kept by the gunsmith in terms of Part 3 of this Chapter.

(5) A gunsmith must in the prescribed manner establish and maintain a workstation which links the registers referred to in subsection (2) to the central gunsmiths' database.

(6) The Registrar may, on good cause shown on application by a gunsmith, exempt the gunsmith from the duties referred to in subsection (5).

(7) Any gunsmith exempted as contemplated in subsection (6), must submit weekly returns, completed in the prescribed form, to the Office of the Central Firearms Register.

(8) A gunsmith must comply with any condition imposed under section 61 and specifications prescribed under that section.

## **68 Establishment of centralised gunsmiths' database**

The Registrar must establish and maintain such central gunsmiths' database as may be prescribed.

## **69 Suspension of gunsmith's licence**

(1) The Registrar may suspend a gunsmith's licence if the Registrar has information in a sworn statement or on solemn declaration that the gunsmith has committed an offence in terms of this Act for which a sentence of imprisonment for a period of five years or more may be imposed.

(2) A licence may be suspended for not more than seven days without affording the holder of the licence a hearing.

(3) A suspension may endure for a period longer than seven days if the-

- (a) holder has been afforded an opportunity to make written representations to the Registrar;
- (b) Registrar has given due consideration to the representations;
- (c) Registrar deems it necessary in order to achieve the objects of this Act; and
- (d) suspension has been confirmed by a court.

(4) A gunsmith may not conduct business as a gunsmith for such period as the licence is suspended.

## **70 Termination of gunsmith's licence**

(1) A gunsmith's licence terminates-

- (a) upon the expiry of one year from the date on which it was issued;

**[NB: Para. (a) has been substituted by s. 22 of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDLEX.]**

- (b) if surrendered by the gunsmith to the Registrar;
- (c) if the gunsmith becomes or is declared unfit to possess a firearm in terms of section 102 or 103; or
- (d) if cancelled in terms of this Act.

(2) The Registrar may, by written notice, cancel a gunsmith's licence if the holder of the licence-

- (a) no longer qualifies to hold the licence; or

(b) has contravened or failed to comply with any provision of this Act or any condition specified in the licence.

(3) A notice contemplated in subsection (2) may only be issued if the Registrar has-

(a) given the holder 30 days' notice in writing to submit written representations as to why the licence should not be cancelled; and

(b) duly considered any representations received and all the facts pertaining to the matter.

(4) If a notice contemplated in subsection (2) is issued, the former holder of the licence must dispose of any firearms and ammunition in his or her possession in such manner as the Registrar may determine.

### **71 Application of other laws**

A licence issued in terms of Part 3 of this Chapter does not exempt the holder of the licence from the obligation to comply with any other law.

### **72 Defaced, lost or stolen licences**

(1) If a gunsmith's licence is lost or stolen, the holder of the licence must inform the Registrar within 24 hours of the discovery of the loss or theft.

(2) If a gunsmith's licence is defaced, lost or stolen, the holder of the licence must within seven days of the discovery of the defacement, loss or theft apply to the Registrar in the prescribed manner for a copy of the licence.

## **CHAPTER 8**

### **IMPORT, EXPORT AND CARRIAGE IN-TRANSIT OF FIREARMS AND AMMUNITION (ss 73-82)**

#### **73 Prohibition of import, export or carriage in-transit of firearms and ammunition without permit**

(1) No person may import into or export from South Africa any firearms or ammunition without an import or export permit issued in terms of this Act.

(2) No person may carry in transit through South Africa any firearms or ammunition without an in-transit permit issued in terms of this Act.

**[NB: S. 73 has been substituted by s. 24 of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDLEX.]**

#### **74 Requirements for import, export or in-transit permit**

(1) An import, export or in-transit permit may be issued to a person who is a fit and proper person to hold such permit.

(2) Unless the Registrar directs otherwise in writing, no import, export or in-transit permit may be issued in respect of any firearm or ammunition which does not bear the prescribed identification marks.

#### **75 Conditions imposed on holder of permit**

The Minister may prescribe conditions which the Registrar may impose on the holder of a permit issued in terms of this Chapter.

#### **76 Import, export or in-transit permit**

An import, export or in-transit permit must-

- (a) specify the conditions contemplated in section 75; and
- (b) contain such other information as may be prescribed.

### **77 Permit constitutes licence to possess firearm or ammunition**

(1) A permit for the import of a firearm or ammunition also constitutes a licence to possess such firearm or ammunition for such person and period as the Registrar may specify on the permit.

(2) The Registrar may impose such conditions in respect of the possession and use of the relevant firearm or ammunition as may be prescribed, and must, on the permit in question, specify any conditions imposed.

### **78 Duties of holder of permit**

(1) The holder of a permit issued in terms of this Chapter, must at the request of any police official, produce for inspection-

- (a) any firearms or ammunition in his or her possession or under his or her control;
- (b) his or her permit; and
- (c) any register or electronic data that may be kept by him or her in terms of this Act.

(2) The Registrar may direct the holder of a permit issued in terms of this Chapter to keep and maintain registers containing such information as he or she may direct.

(3) The Registrar may direct the holder of a permit issued in terms of this Chapter to establish and maintain a workstation which complies with such requirements as he or she may direct and which links the registers referred to in subsection (2) to the central importers' and exporters' database.

(4) The holder of a permit issued in terms of this Chapter must comply with the conditions specified in the permit.

### **79 Establishment of central importers' and exporters' database**

The Registrar must establish and maintain such central importers' and exporters' databases as may be prescribed.

### **80 Suspension of import, export and in-transit permits**

(1) The Registrar may suspend an import, export or in-transit permit if the Registrar has information in a sworn statement or on solemn declaration that the holder of the permit has committed an offence in terms of this Act for which a sentence of imprisonment for a period of five years or more may be imposed.

[Sub-s. (1) substituted by s. 9 of Act 43 of 2003.]

(2) A permit may be suspended for not more than seven days without affording the holder of the permit a hearing.

(3) A suspension may endure for a period longer than seven days if the-

- (a) holder has been afforded an opportunity to make written representations to the Registrar;
- (b) Registrar has given due consideration to the representations;
- (c) Registrar deems it necessary in order to achieve the objects of this Act; and
- (d) suspension has been confirmed by a court.

(4) A holder of a permit may not import or export firearms or ammunition or carry firearms or ammunition in transit for such period as the permit is suspended.

### **81 Termination of import, export and in-transit permits**

(1) An import, export or in-transit permit terminates-

- (a) on the date specified in the permit;
- (b) if surrendered by the holder of the permit to the Registrar;
- (c) if the holder of a permit becomes or is declared unfit to possess a firearm in terms of section 102 or 103; or
- (d) if cancelled in terms of this Act.

(2) The Registrar may, by written notice, cancel an import, export or in-transit permit if the permit holder-

- (a) no longer qualifies to hold the permit; or
- (b) has contravened or failed to comply with any provision of this Act or any condition specified in the permit.

(3) A notice contemplated in subsection (2) may only be issued if the Registrar has-

- (a) given the holder 30 days' notice in writing to submit written representations as to why the permit should not be cancelled; and
- (b) duly considered any representations received and all the facts pertaining to the matter.

(4) If a notice contemplated in subsection (2) is issued, the former holder of a permit must dispose of any firearms and ammunition in his or her possession in such manner as the Registrar may determine.

### **82 Defaced, lost or stolen permits**

(1) If an import, export or in-transit permit is lost or stolen, the holder of a permit must inform the Registrar within 24 hours of the discovery of the loss or theft.

(2) If an import, export or in-transit permit is defaced, lost or stolen, the holder of the permit must within seven days of the discovery of the defacement, loss or theft apply to the Registrar in the prescribed manner for a copy of the permit.

## **CHAPTER 9**

### **STORAGE, TRANSPORT AND CARRYING OF FIREARMS AND AMMUNITION (ss 83-89)**

#### **83 Storage and transport of firearms and ammunition**

Firearms and ammunition must be stored and transported in the prescribed manner.

#### **84 Carrying of firearm in public place**

(1) No person may carry a firearm in a public place unless the firearm is carried-

- (a) in the case of a handgun-
  - (i) in a holster or similar holder designed, manufactured or adapted for the carrying of a handgun and attached to his or her person; or
  - (ii) in a rucksack or similar holder; or
- (b) in the case of any other firearm, in a holder designed, manufactured or adapted for the carrying of the firearm.

(2) A firearm contemplated in subsection (1) must be completely covered and the person carrying the firearm must be able to exercise effective control over such firearm.

### **85 Conditions imposed on transporter of firearm**

(1) The Minister may prescribe conditions which the Registrar may impose on the holder of a permit issued in terms of section 86.

(2) The conditions which the Registrar imposes must be specified in the permit.

### **86 Firearm transporter's permit**

(1) No person may transport any firearm or ammunition for reward without being in possession of a firearm transporter's permit issued in terms of this Act.

(2) A firearm transporter's permit may be issued to a person who is a fit and proper person to conduct business as a firearm transporter.

(3) The Registrar may issue a firearm transporter's permit-

- (a) on receipt of an application completed on the prescribed form and containing the prescribed information; and
- (b) for such period as the Registrar may determine.

### **87 Duties of holder of permit**

(1) The holder of a permit issued in terms of this Chapter, must at the request of any police official, produce for inspection-

- (a) any firearms or ammunition in his or her possession or under his or her control;
- (b) his or her permit; and
- (c) any register or electronic data that may be kept by him or her in terms of this Act.

(2) The Registrar may direct the holder of a permit issued in terms of this Chapter to keep and maintain registers containing such information as he or she may direct.

(3) The holder of a firearm transporter's permit must comply with any conditions imposed under section 85.

### **88 Cancellation of firearm transporter's permit**

(1) The Registrar may, by written notice, cancel a firearm transporter's permit if the permit holder-

- (a) no longer qualifies to hold the permit; or
- (b) has contravened or failed to comply with any provision of this Act or any condition specified in the permit.

(2) The former holder of a permit must dispose of his or her cargo of firearms and ammunition in accordance with the directions of the Registrar.

**[NB: A sub-s. (3) has been added by s. 25 of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDLEX.]**

### **89 Records to be kept**

The Office of the Central Firearms Register must keep a record of prescribed information in respect of all firearm transporter's permits issued in terms of this Chapter.

## **CHAPTER 10 CONTROL OF AMMUNITION AND FIREARM PARTS (ss 90-94)**

## 90 Prohibition of possession of ammunition

No person may possess any ammunition unless he or she-

- (a) holds a licence in respect of a firearm capable of discharging that ammunition;
- (b) holds a permit to possess ammunition;
- (c) holds a dealer's licence, manufacturer's licence, gunsmith's licence, import, export or in-transit permit or transporter's permit issued in terms of this Act; or
- (d) is otherwise authorised to do so.

## 91 Restrictions on possession of ammunition

(1) The holder of a licence to possess a firearm referred to in Chapter 6 may not possess more than 200 cartridges for each firearm in respect of which he or she holds a licence.

(2) The limitation in subsection (1) does not apply to-

- (a) a dedicated hunter, dedicated sports person or a professional hunter who holds a licence issued in terms of this Act or any other holder of a licence issued in terms of this Act authorised by the Registrar to possess more than 200 cartridges for a firearm in respect of which he or she holds a licence on good cause shown; or'

[Para. (a) substituted by s. 26 of Act 28 of 2006.]

- (b) the holder of a licence to possess a firearm issued in terms of this Act in respect of ammunition bought and discharged at an accredited shooting range.

## 92 Prohibitions and restrictions on use of certain ammunition

(1) The Minister may, by notice in the *Gazette*, prohibit or restrict the acquisition, disposal, possession or use of ammunition of a specified class if it is-

- (a) in the interest of public safety; or
- (b) desirable for the maintenance of law and order.

(2) A notice contemplated in subsection (1) must be tabled in Parliament at least 14 days before publication thereof if Parliament is then sitting, and if Parliament is not sitting, within seven days after the commencement of the next sitting.

(3) A notice contemplated in subsection (1) is of full force and effect until withdrawn by the Minister or by a resolution of Parliament.

## 93 Loading or reloading of ammunition

(1) Section 45 (1) does not apply to the loading of ammunition by the holder of a licence to possess a firearm for use in his or her licensed firearm.

(2) (a) A holder of a licence contemplated in subsection (1) may not have more than 2 400 primers in his or her possession for each firearm in respect of which he or she holds a licence.

(b) The limitation in paragraph (a) does not apply to a dedicated hunter, dedicated sports person or professional hunter who holds a licence issued in terms of this Act or any other holder of a licence issued in terms of this Act authorised by the Registrar to possess more than 2 400 primers for a firearm in respect of which he or she holds a licence on good cause shown.

[Para. (b) substituted by s. 27 of Act 28 of 2006.]

(3) No person may load prohibited ammunition contemplated in section 92.

## 94 Prohibition of possession of firearm parts



(1) For purposes of this section, '**firearm part**' means a slide, bolt or breech-block of a firearm.

**[NB:** Sub-s. (1) has been substituted by s. 28 of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDLEX.]

(2) No person may possess any firearm part unless he or she-

- (a) holds a licence in respect of a firearm capable of bearing that firearm part;
- (b) holds a dealer's licence, manufacturer's licence, gunsmith's licence, import, export or in-transit permit or transporter's permit issued in terms of this Act; or
- (c) is otherwise authorised to do so.

(3) The holder of a dealer's licence, manufacturer's licence, gunsmith's licence, import, export or in-transit permit or transporter's permit issued in terms of this Act must keep such register of all firearm parts in his or her possession as may be prescribed.

(4) (a) The Minister may, by notice in the *Gazette*, prohibit or restrict the acquisition, disposal, possession or use of firearm parts if it is-

- (i) in the interest of public safety; or
- (ii) desirable for the maintenance of law and order.

(b) A notice contemplated in paragraph (a) must be tabled in Parliament at least 14 days before publication thereof if Parliament is then sitting, and if Parliament is not sitting, within seven days after the commencement of the next sitting.

(c) A notice contemplated in paragraph (a) will be of full force and effect until withdrawn by the Minister or by a resolution of Parliament.

## CHAPTER 11 EXEMPTIONS (ss 95-101)

### 95 Definitions

In this Chapter, unless the context indicates otherwise-

(a) '**Official Institution**' means-

- (i) the South African National Defence Force, contemplated in section 5 of the Defence Act, 1957 (Act 44 of 1957);
- (ii) the South African Police Service, contemplated in section 5 of the South African Police Service Act, 1995 (Act 68 of 1995);
- (iii) the Department of Correctional Services, contemplated in section 2 of the Correctional Services Act, 1959 (Act 8 of 1959);
- (iv) any intelligence service established in terms of the Constitution;
- (v) the armaments acquisition agency of the State; and
- (vi) any government institution accredited by the Registrar as an Official Institution;

[Date of commencement of sub-para. (vi): 1 July 2003.]

(b) '**employee**'-

- (i) in relation to the South African National Defence Force, means any member of the South African National Defence Force contemplated in section 5 of the Defence Act, 1957 (Act 44 of 1957), and includes any member of the Reserve contemplated in section 6 of the Defence Act, 1957; and
- (ii) in relation to the South African Police Service, means any member as defined in the South African Police Service Act, 1995 (Act 68 of 1995).

## 96 Exemptions

(1) No provision of this Act other than this Chapter, section 109 and section 145, in so far as it relates to Official Institutions, applies to an Official Institution.

(2) Any firearms and ammunition which form the subject of a notice contemplated in section 4C of the Armaments Development and Production Act, 1968 (Act 57 of 1968), are exempted from the provisions of this Act.

**[NB:** Sub-s. (2) has been substituted by s. 29 of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDLEX.]

(3) A member of a military force of another country visiting South Africa in terms of an international obligation or an agreement between that country and South Africa is exempted from the provisions of this Act to the extent provided for in the obligation or agreement in question.

## 97 Conditions applicable to institution accredited by Registrar

An Official Institution contemplated in section 95 (a) (vi) is subject to such conditions in respect of the acquisition, use, safekeeping and disposal of firearms as may be prescribed, and to such conditions as may be imposed by the Registrar.

## 98 Possession and use of firearms by Official Institution

(1) (a) Subject to this section, an employee of an Official Institution may not possess a firearm under the control of the Official Institution without a permit issued in terms of this Chapter.

(b) Employees of the South African National Defence Force are exempted from the obligation to have a permit in respect of military firearms issued to them-

- (i) while performing official duties under military command; and
- (ii) if they have in their possession a written order, instruction or route form specifying the duty to be performed and the nature and type of firearm they are authorised to carry.

(c) Employees of the South African National Defence Force are exempted from the obligation to have a permit in respect of military firearms in their possession or under their control for the purpose of performing official duties, if those firearms are mounted in or on a military weapons system.

(2) Only the head of an Official Institution, or someone delegated in writing by him or her, may issue a permit to an employee of that Official Institution to possess and use a firearm under its control.

(3) A permit issued in terms of this Chapter must contain such information as may be prescribed.

(4) The head of an Official Institution may impose conditions on the possession and use of the firearms and ammunition under the control of that Official Institution and may issue instructions to employees of that Official Institution prescribing conditions relating to the acquisition, storage, transport, carrying, possession, use and disposal of such firearms and ammunition.

[Sub-s. (4) substituted by s. 10 of Act 43 of 2003.]

(5) Unless the permit referred to in subsection (2) indicates otherwise, the employee must-

- (a) when on duty, carry any handgun under his or her control on his or her person in a prescribed holster;

- (b) at the end of each period of his or her duty, return the firearm in question to the place of storage designated for this purpose by the Official Institution; and
- (c) when traveling with a firearm, carry the firearm on his or her person or in a secure place under his or her direct control.

(6) (a) Despite subsection (5), the head of an Official Institution may authorise an employee to-

- (i) have the firearm in his or her possession after his or her working hours;
- (ii) carry the firearm on his or her person outside the premises of his or her workplace; or
- (iii) store the firearm at his or her place of residence.

(b) Paragraph (a) does not apply to an Official Institution contemplated in section 95 (a) (v) and (vi), unless the Registrar determines in writing that it does so apply.

(7) The holder of a permit contemplated in subsection (2) must carry that permit on his or her person when he or she is in possession of a firearm.

(8) The head of an Official Institution may only issue a permit in terms of subsection (2) if the employee-

- (a) is a fit and proper person to possess a firearm; and
- (b) has successfully completed the prescribed training and the prescribed test for the safe use of a firearm.

(9) (a) The head of an Official Institution must report the loss or theft of any firearm immediately to the Registrar and to the nearest police station.

(b) For the purposes of this subsection '**nearest police station**' means the police station nearest to the place where the loss or theft occurred.

(10) An Official Institution may only dispose of or destroy a firearm under its control in the prescribed manner.

## 99 Register to be kept by Official Institution

(1) The head of an Official Institution must keep a register in the prescribed form.

(2) The register must contain such particulars as may be prescribed, including-

- (a) (i) in the case of the South African National Defence Force, the particulars of every firearm of a calibre of less than 20 millimeters; or
- (ii) in the case of all other Official Institutions, the particulars of every firearm under its control;
- (b) the particulars of every employee who, in terms of this Chapter, is allowed to be in possession of a firearm, and the particulars of each such firearm;
- (c) the conditions specified in every permit issued in terms of this Chapter;
- (d) particulars regarding the disposal, transfer, loss, theft or destruction of firearms contemplated in paragraph (a); and
- (e) if a firearm is lost or stolen, particulars regarding the report of the loss or theft to the South African Police Service.

(3) All firearms under the control of an Official Institution must bear such identification marks as may be prescribed.

## 100 Establishment of central Official Institution firearms databases

The Registrar must establish and maintain such central Official Institution firearms databases as may be prescribed.

### 101 Official Institution's workstation

The head of an Official Institution must-

- (a) establish and maintain a workstation at a place which complies with such requirements as may be prescribed; and
- (b) provide the Registrar with access to the workstation and to the register referred to in section 99.

## CHAPTER 12

### DECLARATION OF PERSONS AS UNFIT TO POSSESS FIREARM (ss 102-105)

#### 102 Declaration by Registrar of person as unfit to possess firearm

**[NB:** The heading has been substituted by s. 30 (a) of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDLEX.]

(1) The Registrar may declare a person unfit to possess a firearm if, on the grounds of information contained in a statement under oath or affirmation including a statement made by any person called as a witness, it appears that-

- (a) a final protection order has been issued against such person in terms of the Domestic Violence Act, 1998 (Act 116 of 1998);
- (aA) a final protection order has been issued against such person in terms of the Protection from Harassment Act, 2011;

[Para. (aA) inserted by s. 21 of Act 17 of 2011.]

- (b) that person has expressed the intention to kill or injure himself or herself or any other person by means of a firearm or any other dangerous weapon;

**[NB:** Para. (b) has been substituted by s. 30 (c) of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDLEX.]

- (c) because of that person's mental condition, inclination to violence or dependence on any substance which has an intoxicating or narcotic effect, the possession of a firearm by that person is not in the interests of that person or of any other person;

**[NB:** Para. (c) has been substituted by s. 30 (c) of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDLEX.]

- (d) that person has failed to take the prescribed steps for the safekeeping of any firearm; or
- (e) that person has provided information required in terms of this Act which is false or misleading.

**[NB:** Sub-s. (1) has been amended and a para. (f) has been added by s. 30 (b) and (d), respectively, of the Firearms Control Amendment Act 28 of 2006, provisions which will be put into operation by proclamation. See PENDLEX.]

(2) A declaration under subsection (1) may only be issued if the Registrar-

- (a) by notice in writing delivered by hand to the person, has called upon the person to appear before the Registrar at a time and place determined therein in order to advance reasons as to why that person should not be declared unfit to possess a firearm;

**[NB:** Para. (a) has been substituted by s. 30 (e) of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDLEX.]

- (b) has given that person a reasonable opportunity to advance reasons as to why the declaration should not be issued;
- (c) has duly considered the matter;

**[NB:** Para. (c) has been substituted by s. 30 (f) of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDLEX.]

- (d) is satisfied that the person is unfit as contemplated in subsection (1); and
- (e) does not rely solely on the same facts relating to a conviction in respect of which a court has made a determination in terms of section 103 (1) or (2) that the person is not unfit to possess a firearm.

**[NB:** Para. (e) has been substituted and a sub-s. (2A) has been inserted by s. 30 (g) and (h), respectively, of the Firearms Control Amendment Act 28 of 2006, provisions which will be put into operation by proclamation. See PENDLEX.]

(3) Any person appearing in pursuance of a notice issued in terms of subsection (2) (a) is entitled to-

- (a) be represented by a legal representative;
- (b) request the Registrar to call, in the manner referred to in subsection (2) (a), any person who made a statement referred to in subsection (1), to appear before the Registrar; and
- (c) examine the person who has been called in terms of subsection (1) or paragraph (b) to appear, or to cause him or her to be so examined by such legal representative.

(4) (a) Section 183 of the Criminal Procedure Act, 1977 (Act 51 of 1977), applies with the necessary changes to any person called to appear before the Registrar in terms of subsection (2) (a), including any witness.

(b) For purposes of paragraph (a) the expression 'to a fine not exceeding R300 or to imprisonment for a period not exceeding three months' where it occurs in section 183 (2) of the Criminal Procedure Act, 1977 (Act 51 of 1977), must be construed to read as follows:

'to a fine or to imprisonment for a period not exceeding 12 months'.

(c) Section 181 of the Criminal Procedure Act, 1977 (Act 51 of 1977), applies with the necessary changes in respect of any witness whose appearance has been requested as contemplated in subsection (3) (b).

### **103 Declaration by court of person to be unfit to possess firearm**

**[NB:** The heading has been substituted by s. 31 (a) of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDLEX.]

(1) Unless the court determines otherwise, a person becomes unfit to possess a firearm if convicted of-

- (a) the unlawful possession of a firearm or ammunition;

**[NB:** Para. (a) has been substituted by s. 31 (c) of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDLEX.]

- (b) any crime or offence involving the unlawful use or handling of a firearm, whether the firearm was used or handled by that person or by another participant in that offence;

**[NB:** Para. (b) has been substituted by s. 31 (c) of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDLEX.]

- (c) an offence regarding the failure to store firearms or ammunition in accordance with the requirements of this Act;
- (d) an offence involving the negligent handling or loss of a firearm while the firearm was in his or her possession or under his or her direct control;
- (e) an offence involving the handling of a firearm while under the influence of any substance which has an intoxicating or narcotic effect;

**[NB:** Para. (e) has been substituted by s. 31 (d) of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDLEX.]

- (f) any other crime or offence in the commission of which a firearm was used, whether the firearm was used or handled by that person or by another participant in the offence;

**[NB:** Para. (f) has been substituted by s. 31 (d) of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDLEX.]

- (g) any offence involving violence, sexual abuse or dishonesty, for which the accused is sentenced to a period of imprisonment without the option of a fine;
- (h) any other offence under or in terms of this Act in respect of which the accused is sentenced to a period of imprisonment without the option of a fine;
- (i) any offence involving physical or sexual abuse occurring in a domestic relationship as defined in section 1 of the Domestic Violence Act, 1998 (Act 116 of 1998);
- (j) any offence involving the abuse of alcohol or drugs;
- (k) any offence involving dealing in drugs;
- (l) any offence in terms of the Domestic Violence Act, 1998 (Act 116 of 1998) in respect of which the accused is sentenced to a period of imprisonment without the option of a fine;
- (m) any offence in terms of the Explosives Act, 1956 (Act 26 of 1956), in respect of which the accused is sentenced to a period of imprisonment without the option of a fine;
- (n) any offence involving sabotage, terrorism, public violence, arson, intimidation, rape, kidnapping, or child stealing; or
- (o) any conspiracy, incitement or attempt to commit an offence referred to above.

**[NB:** Sub-s. (1) has been amended by s. 31 (b) of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDLEX.]

(2) (a) A court which convicts a person of a crime or offence referred to in Schedule 2 and which is not a crime or offence contemplated in subsection (1), must enquire and determine whether that person is unfit to possess a firearm.

(b) If a court, acting in terms of paragraph (a), determines that a person is unfit to possess a firearm, it must make a declaration to that effect.

(3) A court which has convicted a person of a crime or an offence contemplated in subsection (1), has made a determination contemplated in that subsection or has made a declaration in terms of subsection (2) must notify the Registrar in writing of that conviction, determination or declaration.

(4) Unless a determination that a person is not unfit to possess a firearm has been made in terms of subsection (1), a notice contemplated in subsection (3) must be accompanied by a court order for the immediate search for and seizure of-

- (a) all competency certificates, licences, authorisations and permits issued to the relevant person in terms of this Act;
- (b) all firearms in his or her possession; and
- (c) all ammunition in his or her possession.

(5) A firearm and any other item seized in terms of subsection (4) must be kept by the South African Police Service or, if appropriate, by the Military Police, until an appeal against the conviction or sentence has been finalised or the time for an appeal has elapsed.

**[NB:** Sub-ss. (6) and (7) have been added by s. 31 (e) of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDLEX.]

## 104 Effect of declaration of unfitness

(1) (a) All competency certificates, licences, authorisations and permits issued in terms of this Act to any person who becomes or is declared unfit to possess a firearm in terms of section 102 or 103, cease to be valid from the date of the conviction, or the declaration, as the case may be.

(b) Despite the noting of an appeal against the decision of a court or of the Registrar, the status of unfitness contemplated in paragraph (a) remains in effect pending the finalisation of the appeal.

(2) A person who becomes or is declared unfit to possess a firearm in terms of section 102 or 103 must within 24 hours surrender to the nearest police station-

(a) all competency certificates, licences, authorisations and permits issued to him or her in terms of this Act;

(b) all firearms in his or her possession; and

**[NB: Para. (b) has been substituted by s. 32 (b) of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDLEX.]**

(c) all ammunition in his or her possession.

**[NB: Sub-s. (2) has been amended by s. 32 (a) of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDLEX.]**

(3) (a) A person who has surrendered his or her firearm as contemplated in subsection (2) must dispose of the firearm and ammunition through a dealer or in such manner as the Registrar may determine-

(i) if an appeal is lodged and that appeal is unsuccessful, within 60 days of the finalisation of the appeal; or

(ii) if no appeal is lodged, within 60 days of the receipt of a written notice from the Registrar informing the person of his or her unfitness to possess a firearm.

(b) If the firearm and ammunition are not disposed of within 60 days, they must be forfeited to the State and destroyed or disposed of as prescribed.

(c) The period of 60 days referred to in this subsection may be extended by the Registrar on good cause shown.

(d) For purposes of subsection (3) (a), the Registrar must release the firearm and ammunition in question to a dealer identified by the relevant person, for disposal by that dealer on behalf of the person.

**[NB: Sub-s. (3) has been substituted by s. 32 (c) of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDLEX.]**

(4) (a) The holder of an additional licence referred to in section 12 (1) may, if the holder of the licence becomes or is declared unfit to possess a firearm, apply to the Registrar for the issue of a new licence in his or her name.

(b) If the holder of an additional licence does not make an application referred to in paragraph (a) within 30 days of the-

(i) date on which the time for an appeal elapses; or

(ii) finalisation of the appeal if it does not affect the status of unfitness,

the additional firearm licence lapses.

(5) If the decision leading to the status of unfitness to possess a firearm of any person is set aside, any seized or surrendered firearm, ammunition, licence, permit or authorisation belonging to any such person, must be returned.

**[NB: Sub-s. (5) has been substituted by s. 32 (c) of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDLEX.]**

(6) Subject to section 9 (3) (b) and after a period of five years calculated from the date of the decision leading to the status of unfitness to possess a firearm, the person who has



become or been declared unfit to possess a firearm may apply for a new competency certificate, licence, authorisation or permit in accordance with the provisions of this Act.

**[NB:** Sub-s. (6) has been substituted by s. 32 (d) of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDING.]

[S. 104 amended by s. 11 of Act 43 of 2003.]

### **105 Proof of declaration of unfitness**

A certificate purporting to have been signed by the Registrar or by the registrar of a High Court, the clerk of a magistrate's court or the clerk of a military court, stating that the person mentioned in the certificate has become or been declared unfit to possess a firearm, or has been convicted of a specific offence or crime, is upon production thereof by any person, *prima facie* evidence of the facts stated in that certificate.

[S. 105 amended by s. 12 of Act 43 of 2003.]

## **CHAPTER 13 INSPECTIONS (ss 106-109)**

### **106 Production of licences and firearms for inspection**

(1) Subject to section 107, any holder of a licence, permit or authorisation issued in terms of this Act must-

- (a) produce the licence, permit or authorisation for inspection within seven days of being required to do so by any police official or by any person authorised by the Registrar;
- (b) maintain the licence, permit or authorisation in such a state that it can be produced in an undefaced and legible condition; and
- (c) produce the firearm in respect of which the licence, permit or authorisation is issued within seven days of being required to do so by any police official or by any person authorised by the Registrar.

(2) A police official or an authorised person, when exercising a power in terms of subsection (1) must-

- (a) identify himself or herself to the person referred to in subsection (1); and
- (b) produce his or her appointment certificate or authorisation.

### **107 Duty to comply with request of police official or authorised person**

(1) Any person who carries with him or her a firearm must at the request of a police official or any person authorised by the Registrar produce the licence, permit or authorisation, as the case may be, in respect of such firearm for inspection.

(2) A person referred to in subsection (1) must-

- (a) at the request and to the satisfaction of a police official or any person authorised by the Registrar, identify himself or herself forthwith; and
- (b) at the request of a police official or any person authorised by the Registrar, produce such firearm for inspection.

(3) If a person fails to comply with subsection (1) or (2), the police official or authorised person may seize the firearm without a warrant and keep the firearm in custody until the licence, permit or authorisation is produced or the firearm is disposed of in terms of this Act.

(4) A police official or an authorised person, when exercising a power in terms of subsection (1) or (2) must-

- (a) identify himself or herself to the person referred to in subsection (1); and



- (b) produce his or her appointment certificate or authorisation.

### **108 Request for information**

(1) A police official or any person authorised by the Registrar who has reasonable grounds to believe that a person has or recently had a firearm or ammunition in his or her possession, may request that person to-

- (a) state his or her full name, age, residential and employment address;
- (b) produce his or her licence, permit or authorisation for the possession of the firearm;
- (c) answer questions relating to the whereabouts of the firearm; and
- (d) furnish any other information reasonably required by the police official or authorised person.

(2) A police official or an authorised person, when exercising a power in terms of subsection (1) must-

- (a) identify himself or herself to the person referred to in subsection (1); and
- (b) produce his or her appointment certificate or authorisation.

### **109 Inspection of premises**

(1) A police official or any person authorised by the Registrar may enter any-

- (a) place of business of a dealer;
- (b) firearm or ammunition factory or place of business of a manufacturer of firearms and ammunition;
- (c) place of business of a gunsmith;
- (d) place of business of the holder of an import or export permit;
- (e) place of business, including any vehicle, vessel or aircraft, of an authorised transporter of firearms and ammunition;
- (f) office or premises of an Official Institution which may issue a permit to its employees to possess and use firearms; or
- (g) place of business, including any vehicle, vessel or aircraft, of the holder of a licence in respect of firearms used for business purposes referred to in section 20,

and conduct such inspection as may be necessary in order to determine whether the requirements and conditions of this Act or of any competency certificate, licence, permit or authorisation issued in terms of this Act are being complied with.

(2) The Registrar must comply with such security arrangements as may be agreed upon with the head of the Official Institution in question.

## **CHAPTER 14 SEARCH AND SEIZURE (ss 110-116)**

### **110 Chapter 2 of Criminal Procedure Act, 1977, to apply**

(1) Chapter 2 of the Criminal Procedure Act, 1977 (Act 51 of 1977), applies with the necessary changes to the entry of premises, search for and seizure of any firearm, imitation firearm, airgun, device or ammunition referred to in this Act.

**[NB:** Sub-s. (1) has been substituted by s. 33 of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDLEX.]

(2) In the application of Chapter 2 of the Criminal Procedure Act, 1977 (Act 51 of 1977), as contemplated in subsection (1), section 20 of the said Act must be construed as if the following paragraph had been added to it:

'(d) which is a firearm or ammunition as defined in section 1 of the Firearms Control Act, 2000, and is on reasonable grounds believed to be in the possession or under the control of a person, who by reason of any physical or mental condition, is incapable of having proper control of any firearm or ammunition or who by such reason presents a danger of harm to himself or herself or to any other person.'

**[NB:** Sub-s. (2) has been substituted by s. 33 of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDLEX.]

(3) Despite sections 30 and 31 of the Criminal Procedure Act, 1977 (Act 51 of 1977), any article referred to in subsection (1) which is lawfully seized by the State, may be dealt with or disposed of in accordance with the provisions of this Act.

(4) This Chapter does not derogate from any power conferred by any other law to enter any premises or search any person, container or premises or to arrest any person or to seize any matter, to declare any matter forfeited or to dispose of any matter.

### **111 Search and seizure in course of policing operations in terms of South African Police Service Act, 1995**

(1) Despite anything to the contrary in this Chapter, any police official or person authorised as such by the National Commissioner or any provincial commissioner of the South African Police Service, may, in the course of official policing operations contemplated in section 13 (6), (7) or (8) of the South African Police Service Act, 1995 (Act 68 of 1995), search any premises, vehicle, vessel or aircraft and seize any firearm, imitation firearm, airgun, device or ammunition-

- (a) which is reasonably suspected to be held in contravention of this Act; or
- (b) for the purposes of determining whether or not the provisions of this Act have been complied with in respect of such article.

**[NB:** Sub-s. (1) has been amended by s. 34 of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDLEX.]

(2) Section 13 of the South African Police Service Act, 1995 (Act 68 of 1995), applies with the necessary changes to any search or seizure contemplated in subsection (1).

### **112 Exercise of powers set out in section 37 of Criminal Procedure Act, 1977**

Any police official or other person authorised as such in writing by the Registrar may exercise the powers of a police official set out in section 37 of the Criminal Procedure Act, 1977 (Act 51 of 1977), in respect of-

- (a) any occupant of a vehicle, vessel or aircraft or premises in which any article referred to in section 110 (1) is present and in respect of which there is a reasonable suspicion that any of the provisions of this Act may have been contravened by that occupant; and
- (b) the owner or person in control of any vehicle, vessel or aircraft or premises in which any article referred to in section 110 (1) is present and in respect of which there is a reasonable suspicion that any of the provisions of this Act may have been contravened.

### **113 .....**

(1) to (3) .....

(4) A police official may do such tests, or cause such tests to be done, as may be necessary to determine whether a person suspected of having handled or discharged a firearm has indeed handled or discharged a firearm.

**[NB:** Sub-s. (4) has been substituted by s. 35 of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDLEX.]

(5) .....

[S. 113 substituted by s. 8 of Act 6 of 2010 and repealed (except for sub-s. (4)) by s. 8 of Act 37 of 2013.]

[Date of commencement of s. 113: 1 June 2001.]

#### **114 Ballistic testing**

(1) Any police official may seize, test-fire and examine such number of firearms as are necessary or such ammunition as is necessary, if-

- (a) there are reasonable grounds to suspect that one or more of the firearms or the ammunition has been used in the commission of an offence which is punishable in terms of this Act with imprisonment for a period of five years or longer; and
- (b) there are reasonable grounds to believe that one or more of the firearms or the ammunition or the results of the test-firing and examination, will be of value in the investigation by excluding or including-
  - (i) one or more of those firearms or the ammunition as having been used in the commission of the offence; or
  - (ii) one or more persons as possible perpetrators of the offence.

(2) The person who has control over a firearm or ammunition seized in terms of this section must immediately return it or otherwise dispose of it in terms of this Act when it is clear that it will not be of value as evidence.

**[NB:** S. 114 has been substituted by s. 36 of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDLEX.]

#### **115 Inspection, search and seizure for inquiry or investigation (with special warrant)**

(1) For purposes of any inquiry or investigation relating to the application of this Act and subject to subsection (4), the Registrar or any person authorised in writing by the Registrar may-

- (a) at any reasonable time and without prior notice, enter any business or industrial premises; or
- (b) at any reasonable time and with reasonable notice, enter any dwelling,

on or in which anything relating to the subject-matter of the inquiry or investigation is or is suspected to be.

[Sub-s. (1) substituted by s. 13 (a) of Act 43 of 2003.]

(2) The Registrar or person authorised may-

- (a) inspect and search any premises or dwelling contemplated in subsection (1) and make such enquiries as may be necessary for purposes of the inquiry or investigation;
- (b) examine anything found on the premises or dwelling which may have a bearing on the subject-matter of the inquiry or investigation;
- (c) request information or an explanation regarding such object from the owner or person in control of those premises or from any person in whose possession or under whose control anything referred to in paragraph (b) is found;

- (d) make copies of or extracts from any book or document found on or in the premises or dwelling which may have a bearing on the subject-matter of the inquiry or investigation and request an explanation of such book, document or any entry therein from any person suspected of having knowledge thereof; and
- (e) against the issue of a written receipt, seize anything on or in the premises or dwelling which may have a bearing on the subject-matter of the inquiry or investigation.

(3) Any entry upon, inspection of or search of any premises or dwelling, or questioning of any person, in terms of this section must be carried out with strict regard to decency and order.

(4) Any power contemplated in subsection (1) may be exercised only-

- (a) in terms of a warrant issued by a judge or magistrate; or
- (b) without warrant by a police official contemplated in paragraph (a) of the definition of 'police official' in section 1 if-
  - (i) there are reasonable grounds to believe that a warrant would be issued and the delay in obtaining the warrant would defeat the object for which the power is exercised; or
  - (ii) the person who is competent to do so consents to the exercise of the power.

[Para. (b) amended by s. 13 (b) of Act 43 of 2003.]

(5) (a) A warrant may only be issued if it appears from evidence under oath or on affirmation that there are reasonable grounds to suspect that anything referred to in subsection (2) is or may be on the premises or in the dwelling in question.

(b) The evidence must contain information regarding the-

- (i) nature of the inquiry or investigation to be conducted;
- (ii) reason for or suspicion which gave rise to the inquiry or investigation;
- (iii) need for search and seizure in terms of this section; and
- (iv) premises on which the warrant is to be executed.

(6) Subject to subsection (7), sections 21 (3) and 27 of the Criminal Procedure Act, 1977 (Act 51 of 1977), apply, with the necessary changes, to the execution of a warrant or to a search in terms of this section.

(7) A warrant contemplated in this section remains in force until-

- (a) it is executed;
- (b) it is cancelled; or
- (c) the expiry of three months from the date of its issue,

whichever may occur first.

[Date of commencement of s. 115: 1 July 2003.]

## 116 Incidental discovery

If, in the course of a lawful search for anything other than articles referred to in section 110 (1), the person executing the search finds an article referred to in section 110 (1), in respect of which a reasonable suspicion of illegality or illegal possession exists, such person may seize such article, and must then deal with it or dispose of it in terms of this Act.

## CHAPTER 15 PRESUMPTIONS (ss 117-119)

### 117 Presumption of possession of firearm or ammunition

(1) For purposes of this section 'residential premises' does not include a hotel, hostel, or an apartment building, but includes a room or suite in a hotel, a room in a hostel and an apartment in an apartment building.

(2) Whenever a person is charged in terms of this Act with an offence of which the possession of a firearm or ammunition is an element, and the State can show that despite the taking of reasonable steps it was not able with reasonable certainty to link the possession of the firearm or ammunition to any other person, the following circumstances will, in the absence of evidence to the contrary which raises reasonable doubt, be sufficient evidence of possession by that person of the firearm or ammunition where it is proved that the firearm or ammunition was found-

- (a) on residential premises and the person was, at the time-
  - (i) in control of such premises; or
  - (ii) over the age of 16 years and ordinarily resident at such premises;
- (b) buried in or hidden on land used for residential purposes and the person was, at the time-
  - (i) in control of such land;
  - (ii) employed to work on the land in or on which the firearm or ammunition was found; or
  - (iii) over the age of 16 years and ordinarily resident on such land;  
[Para. (b) amended by s. 14 (a) of Act 43 of 2003.]
- (c) on premises other than residential premises and the person was, at the time-
  - (i) in control of such premises;
  - (ii) ordinarily employed on the premises;
  - (iii) present in the immediate vicinity of the place on the premises where the firearm or ammunition was found and the circumstances indicate that the firearm or ammunition should have been visible to that person; or

**[NB: Sub-para. (iii) has been substituted by s. 37 (b) of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDLEX.]**

  - (iv) in control of a locker, cupboard or other container within which the firearm or ammunition was found;

**[NB: Sub-para. (iv) has been substituted by s. 37 (b) of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDLEX.]**
- (d) in or on a vehicle and the person was, at the time-
  - (i) the driver of the vehicle;
  - (ii) the person in charge of the vehicle;
  - (iii) in control of all the goods on the vehicle;
  - (iv) the consignor of any goods in or among which the firearm or ammunition was found;

**[NB: Sub-para. (iv) has been substituted by s. 37 (c) of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDLEX.]**

  - (v) the only person who had access to the firearm or ammunition;

**[NB: Sub-para. (v) has been substituted by s. 37 (c) of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDLEX.]**

  - (vi) the employer of the driver of the vehicle and present on the vehicle; or
  - (vii) over the age of 16 years and present on the vehicle;
- (e) on any aircraft other than an aircraft which was used to convey passengers for gain, and the person was at the time-
  - (i) present on the aircraft and in charge of the aircraft; or

- (ii) over the age of 16 years and present on the aircraft;
- (f) in the hold of an aircraft and the person was, at the time, the person in charge of the goods in the hold;
- (g) in a place on an aircraft or vessel-
  - (i) to which no one besides the person had access; or
  - (ii) where the circumstances indicate that the firearm or ammunition should have been visible to no one besides the person;

**[NB:** Sub-para. (ii) has been substituted by s. 37 (d) of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDLEX.]

- (h) on any vessel other than a vessel which was used to convey passengers for gain, and the person was, at the time-
  - (i) in charge of that vessel or that part of the vessel in which the firearm or ammunition was found;
  - (ii) ordinarily employed in the immediate vicinity of the place on the vessel where the firearm or ammunition was found; or
  - (iii) over the age of 16 years and present in that part of the vessel; or

**[NB:** Para. (h) has been substituted by s. 37 (e) of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDLEX.]

- (i) in the cargo of a vessel and the person was, at the time-
  - (i) in control of the cargo of the vessel; or
  - (ii) the consignor of any goods in or among which the firearm or ammunition was found.

**[NB:** Para. (i) has been substituted and sub-s. (2) has been amended by s. 37 (e) and (a), respectively, of the Firearms Control Amendment Act 28 of 2006, provisions which will be put into operation by proclamation. See PENDLEX.]

(3) In any criminal proceedings against a person where it is alleged that such person has injured or killed another person or has damaged property belonging to another person, the following circumstances will, in the absence of evidence to the contrary which raises a reasonable doubt, be sufficient evidence that such person participated in the injury, killing or damage, where it is proved that-

- (a) the person was driving, or was a passenger in, a vehicle other than a vehicle designed or licensed to convey more than 20 passengers;
 

[Para. (a) substituted by s. 14 (b) of Act 43 of 2003.]
- (b) a firearm was discharged from that vehicle while the person was driving or was a passenger in the vehicle; and

**[NB:** Para. (b) has been substituted by s. 37 (f) of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDLEX.]

- (c) as a result of such discharge, a person was injured or killed, or property was damaged.

## 118 Presumptions relating to failure to report

(1) Whenever a person is charged with an offence in terms of this Act of failing to report the loss, theft or destruction of a firearm and it is proved that such person was, at the time, the licensed or authorised possessor of the firearm alleged to have been lost, stolen or destroyed, proof that the person has failed to produce such firearm within seven days of the request by a police official to do so, will, in the absence of evidence to the contrary which raises reasonable doubt, be sufficient evidence that the firearm has been lost, stolen or destroyed.

**[NB:** Sub-s. (1) has been substituted by s. 38 of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDLEX.]

(2) Whenever a person is charged with an offence in terms of this Act of failing to furnish information or particulars on request of a police official and it is proved that such person was, at the time, the licensed or authorised possessor of the firearm alleged to have been lost, stolen or destroyed, proof that the person has failed to produce such information or particulars within seven days of the request of a police official to do so, will, in the absence of evidence to the contrary which raises reasonable doubt, be sufficient evidence that the person has failed to furnish such information or particulars.

### 119 Presumption of failure to take reasonable steps

Whenever a person is charged in terms of this Act with an offence of failing to take reasonable steps to ensure that no firearm or ammunition is brought onto premises, a vehicle, a vessel or an aircraft under his or her ownership or control in contravention of this Act, proof that the firearm or ammunition was brought onto premises, a vehicle, a vessel or an aircraft under his or her ownership or control, will, in the absence of evidence to the contrary which raises reasonable doubt, be sufficient evidence that he or she failed to take such reasonable steps.

## CHAPTER 16 OFFENCES, PENALTIES AND ADMINISTRATIVE FINES (ss 120-122)

### 120 Offences

(1) A person is guilty of an offence if he or she contravenes or fails to comply with any-

- (a) provision of this Act;

[Date of commencement of para. (a): 1 June 2001.]

- (b) condition of a licence, permit or authorisation issued or granted by or under this Act; or

- (c) provision, direction or requirement of a notice issued under this Act.

[Date of commencement of para. (c): 1 June 2001.]

(2) (a) Any person who is aware of the existence of a firearm or ammunition that is not in the lawful possession of any person and fails to report the location of the firearm or ammunition to a police official without delay, is guilty of an offence.

**[NB:** Para. (a) has been substituted by s. 39 (a) of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDLEX.]

(b) A police official to whom a person has made a report contemplated in paragraph (a), must immediately provide the person with written proof that the report has been made or, in the case of a telephonic or similar report, with the official reference number of the report.

(3) It is an offence to-

- (a) cause bodily injury to any person or cause damage to property of any person by negligently using a firearm, an antique firearm or an airgun;

- (b) discharge or otherwise handle a firearm, an antique firearm or an airgun in a manner likely to injure or endanger the safety or property of any person or with reckless disregard for the safety or property of any person; or

- (c) have control of a loaded firearm, an antique firearm or an airgun in circumstances where it creates a risk to the safety or property of any person and not to take reasonable precautions to avoid the danger.

**[NB:** Sub-s. (3) has been substituted by s. 39 (b) of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDLEX.]

(4) It is an offence to handle a firearm, an antique firearm or an airgun while under the influence of a substance which has an intoxicating or a narcotic effect.

**[NB:** Sub-s. (4) has been substituted by s. 39 (b) of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDLEX.]

(5) A person is guilty of an offence if he or she gives control of a firearm, an antique firearm or an airgun to a person whom he or she knows, or ought reasonably to have known-

- (a) to be mentally ill; or
- (b) to be under the influence of a substance which has an intoxicating or a narcotic effect.

**[NB:** Sub-s. (5) has been amended by s. 39 (c) of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDLEX.]

(6) It is an offence to point-

- (a) any firearm, an antique firearm or an airgun, whether or not it is loaded or capable of being discharged, at any other person, without good reason to do so; or
- (b) anything which is likely to lead a person to believe that it is a firearm, an antique firearm or an airgun at any other person, without good reason to do so.

**[NB:** Sub-s. (6) has been substituted by s. 39 (d) of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDLEX.]

(7) It is an offence to discharge a firearm, an antique firearm or an airgun in a built-up area or any public place, without good reason to do so.

[Sub-s. (7) substituted by s. 15 (a) of Act 43 of 2003.]

**[NB:** Sub-s. (7) has been substituted by s. 39 (d) of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDLEX.]

(8) A person is guilty of an offence if he or she-

- (a) fails to lock away his or her firearm or a firearm in his or her possession in a prescribed safe, strong-room or device for the safe-keeping when such firearm is not carried on his or her person or is not under his or her direct control; or
- (b) loses a firearm, or is otherwise dispossessed of a firearm owing to that person's failure to-
  - (i) lock the firearm away in a prescribed safe, strong-room or device for the safekeeping of a firearm;
  - (ii) take reasonable steps to prevent the loss or theft of the firearm while the firearm was on his or her person or under his or her direct control; or
  - (iii) keep the keys to such safe, strong-room or device in safe custody.

(9) It is an offence to-

- (a) add any word, figure or letter to a competency certificate, licence, permit or authorisation as issued, without the Registrar's permission;
- (b) alter or erase any word, figure or letter on or from any competency certificate, licence, permit or authorisation, without the Registrar's permission;  
[Para. (b) substituted by s. 15 (b) of Act 43 of 2003.]
- (c) use or possess any competency certificate, licence, permit or authorisation-
  - (i) to which any words, figures or letters have been unlawfully added;
  - (ii) from which any words, figures or letters have been unlawfully erased; or
  - (iii) on which any words, figures or letters have been unlawfully altered;
- (d) part with a competency certificate, licence, permit or authorisation in order that it may be used by any person other than the person to whom it was issued or granted;
- (e) use a competency certificate, licence, permit or authorisation issued in the name of another person to procure possession of a firearm or ammunition;



**[NB:** Para. (e) has been substituted by s. 39 (e) of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDLEX.]

- (f) supply particulars, information or answers in an application for a competency certificate, licence, permit or authorisation in terms of this Act, knowing them to be false, incorrect or misleading or not believing them to be correct;
- (g) make a false entry in a register which is required to be kept in terms of this Act; or
- (h) furnish false information in any return required to be submitted in terms of this Act.

(10) It is an offence to-

- (a) sell, supply or in any other manner give possession of a firearm or ammunition to a person who is not allowed in terms of this Act to possess that firearm or ammunition; or

**[NB:** Para. (a) has been substituted by s. 39 (f) of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDLEX.]

- (b) be in possession of any firearm, airgun, deactivated firearm, muzzle loading firearm, or imitation firearm, with intent to commit an offence or to use the firearm, airgun, deactivated firearm, muzzle loading firearm, or imitation firearm to resist arrest or prevent the arrest of another person.

[Para. (b) substituted by s. 6 (a) of Act 15 of 2013.]

**[NB:** Para. (b) has been substituted by s. 39 (f) of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDLEX.]

(10A) In determining whether a person intends to use the firearm, airgun, deactivated firearm, muzzle loading firearm or imitation firearm to commit an offence, all relevant factors, including, but not limited to, the following must be taken into account:

- (a) The place and time where the person is found;
- (b) the behaviour of the person, including the making of any threat or the display of intimidatory behaviour;
- (c) the manner in which the firearm, airgun, deactivated firearm, muzzle loading firearm or imitation firearm is carried or displayed;
- (d) whether the possession of the firearm, airgun, deactivated firearm, muzzle loading firearm or imitation firearm was within the context of drug dealing, gang association, organised crime or any other criminal activity; or
- (e) any other relevant factors, including any explanation the person may wish to provide for his or her possession of the firearm, airgun, deactivated firearm, muzzle loading firearm or imitation firearm: Provided that this paragraph shall not be interpreted as an obligation on the person to explain his or her possession of the firearm, airgun, deactivated firearm, muzzle loading firearm or imitation firearm.

[Sub-s. (10A) inserted by s. 6 (b) of Act 15 of 2013.]

(10B) The provisions of subsection (10) (b) do not apply to the following activities:

- (a) The pursuit of any lawful employment, duty or activity;
- (b) the participation in any cultural or religious activities, or lawful sport, recreation, or entertainment; or
- (c) the legitimate collection, display or exhibition of a firearm, airgun, deactivated firearm, muzzle loading firearm or imitation firearm.

[Sub-s. (10B) inserted by s. 6 (b) of Act 15 of 2013.]

(11) Any holder of a licence, permit or authorisation to possess a firearm, and any other person who was in possession of or who had control of a firearm when it was lost, stolen or destroyed and who fails to report the loss, theft or destruction to the police station nearest to the place where it occurred, within 24 hours after having become aware of the loss, theft or destruction of the firearm, is guilty of an offence.

(12) It is an offence to obstruct or hinder any person in the exercise of any power or the performance of any duty in terms of this Act.

## 121 Penalties

Any person convicted of a contravention of or a failure to comply with any section mentioned in Column 1 of Schedule 4, may be sentenced to a fine or to imprisonment for a period not exceeding the period mentioned in Column 2 of that Schedule opposite the number of that section.

[Date of commencement of s. 121: 1 June 2001.]

## 122 Administrative fines

(1) If a person is alleged to have committed an offence contemplated in section 120 for which that person may be sentenced to a fine or imprisonment for a period not exceeding five years in terms of section 121, the Registrar may cause to be delivered by hand to that person (hereinafter referred to as the infringer) an infringement notice which must contain the particulars contemplated in subsection (2).

(2) A notice referred to in subsection (1) must-

- (a) specify the name and address of the infringer;
- (b) specify the particulars of the alleged offence;
- (c) specify the amount of the administrative fine payable, which-
  - (i) if the period contemplated in subsection (1) does not exceed two years, may, in respect of a first infringement, not exceed R5 000 and, in respect of a second or subsequent infringement, not exceed R10 000;
  - (ii) if the period contemplated in subsection (1) does not exceed three years, may, in respect of a first infringement, not exceed R15 000 and, in respect of a second or subsequent infringement, not exceed R30 000;
  - (iii) if the period contemplated in subsection (1) does not exceed four years, may, in respect of a first infringement, not exceed R20 000 and, in respect of a second or subsequent infringement, not exceed R40 000; or
  - (iv) if the period contemplated in subsection (1) does not exceed five years, may, in respect of a first infringement, not exceed R50 000 and, in respect of a second or subsequent infringement, not exceed R100 000;
- (d) inform the infringer that, not later than 30 days after the date of service of the infringement notice, the infringer may-
  - (i) pay the administrative fine;
  - (ii) make arrangements with the Registrar to pay the administrative fine in instalments; or
  - (iii) elect to be tried in court on a charge of having committed the alleged offence; and
- (e) state that a failure to comply with the requirements of the notice within the time permitted, will result in the administrative fine becoming recoverable as contemplated in subsection (4).

(3) If an infringer elects to be tried in court on a charge of having committed the alleged contravention or failure, the Registrar must hand the matter over to the prosecuting authority and inform the infringer accordingly.

(4) If an infringer fails to comply with the requirements of a notice, the Registrar may file with the clerk or registrar of any competent court a statement certified by him or her as correct, setting forth the amount of the administrative fine payable by the infringer, and such

statement thereupon has all the effects of a civil judgment lawfully given in that court in favour of the Registrar for a liquid debt in the amount specified in the statement.

(5) The Registrar may not impose an administrative fine contemplated in this section if the person concerned has been charged with a criminal offence in respect of the same set of facts.

(6) No prosecution may be instituted against a person if the person concerned has paid an administrative fine in terms of this section in respect of the same set of facts.

(7) An administrative fine imposed in terms of this section does not constitute a previous conviction as contemplated in Chapter 27 of the Criminal Procedure Act, 1977 (Act 51 of 1977).

## **CHAPTER 17** **ORGANISATIONAL STRUCTURES (ss 123-130)**

### **123 Registrar of Firearms**

The National Commissioner is the Registrar of Firearms.

[Date of commencement of s. 123: 1 July 2003.]

### **124 Functions of Registrar**

(1) The Registrar must perform his or her functions in accordance with such directions as the Minister may issue.

(2) The Registrar must-

- (a) establish and maintain the Central Firearms Register;
- (b) establish and control the Office of the Central Firearms Register;
- (c) recover the fees payable in terms of this Act;
- (d) develop a training curriculum for competency testing in terms of this Act;
- (e) conduct research into firearms policies;
- (f) monitor the implementation of this Act;
- (g) conduct public education programmes concerning the provisions of this Act and all other matters relating to the safe possession and use of firearms; and
- (h) designate police officials as Designated Firearms Officers.

[Date of commencement of para. (h): 1 July 2003.]

[Sub-s. (2) amended by s. 16 of Act 43 of 2003.]

(3) The Registrar may-

- (a) conduct any investigation or enquiry which he or she deems necessary in order to exercise his or her powers or carry out his or her duties in terms of this Act; and
- (b) make recommendations to the Minister on any matter relating to this Act.

[Date of commencement of sub-s. (3): 1 July 2003.]

### **125 Central Firearms Register**

(1) The Central Firearms Register must contain-

- (a) the central firearms database;
- (b) the central dealers database;
- (c) the central manufacturers database;
- (d) the central gunsmiths database;
- (e) the central importers and exporters database;

- (f) the central Official Institutions database; and
- (g) any other information required to be kept by the Registrar in terms of this Act.

[Date of commencement of para. (g): 1 July 2003.]

(2) The central databases referred to in subsection (1) must contain-

- (a) such information as may be prescribed concerning-
  - (i) competency certificates, licences, authorisations and permits, as well as renewals and cancellations thereof;
  - (ii) applications for competency certificates, licences, authorisations and permits and any renewal applications which have been refused in terms of this Act;
  - (iii) transfers of firearms effected in terms of this Act;
  - (iv) imports and exports of firearms and ammunition in terms of this Act;
  - (v) the transport of firearms and ammunition in terms of this Act; and
  - (vi) the loss, recovery, theft or destruction of firearms.
- (b) all original documentation submitted in support of all applications made in terms of this Act;
- (c) a record of all licensed dealers, manufacturers, gunsmiths, importers and exporters, transporters for reward, accredited institutions, organisations and all firearms and ammunition in their possession;
- (d) a record of all firearms in the possession of Official Institutions;
- (e) a record of the acquisition, transfer, loss, theft or destruction in respect of firearms in the possession of Official Institutions;
- (f) a record of all firearms recovered, forfeited to the State or destroyed;
- (g) the fingerprints which have been submitted for purposes of an application in terms of this Act; and
- (h) any other documentation and information as may be prescribed.

### **126 Certificate signed by Registrar to constitute *prima facie* evidence**

Any document containing information contemplated in section 125 and purporting to be a certificate signed by the Registrar is, upon production in a court by any person, *prima facie* evidence of the facts stated therein.

### **127 Appointment and functions of Head of Office of Central Firearms Register**

(1) The Registrar must, with the approval of the Minister, designate a police official as Head of the Office of the Central Firearms Register.

(2) The Head of the Office of the Central Firearms Register-

- (a) must manage the Office of the Central Firearms Register;
- (b) must perform the duties assigned to him or her by the Registrar; and
- (c) may exercise such powers as may be delegated to him or her by the Registrar.

### **128 Establishment of Appeal Board**

(1) An Appeal Board is hereby established.

(2) The Appeal Board consists of no more than five members who must be appointed by the Minister and who, when viewed collectively, must as far as possible be broadly representative of the population of the Republic.

[Date of commencement of s. 128: 1 July 2003.]

### **129 Conditions of service, remuneration and allowances of members of Appeal Board**

(1) The period and conditions of office, remuneration and allowances of the members of the Appeal Board are as prescribed by the Minister with the approval of the Minister of Finance.

(2) (a) The Minister may at any time withdraw the appointment of a member of the Appeal Board if there is sufficient reason for doing so.

(b) A member may resign by notice in writing to the Minister.

[Date of commencement of s. 129: 1 July 2003.]

### **130 Quorum, meetings and procedure of Appeal Board**

(1) The quorum for, the procedure at, and the holding of meetings of the Appeal Board are as prescribed.

(2) The Appeal Board may establish such committees consisting of members of the Appeal Board as may be prescribed to perform the duties assigned to them by the Appeal Board and to exercise such powers as may be delegated to them by the Appeal Board.

[Date of commencement of s. 130: 1 July 2003.]

### **131 Administrative work of Appeal Board**

The administrative work of the Appeal Board must be performed by such members of the South African Police Service as may be designated by the National Commissioner.

[Date of commencement of s. 131: 1 July 2003.]

### **132 Establishment of Ministerial Committees**

(1) The Minister may establish such committees as may be appropriate to assist him or her, or any other person appointed in terms of this Act, in respect of any matter dealt with in this Act.

(2) The composition and functions of the committees may be determined by the Minister.

(3) The conditions of office, remuneration, allowances and other benefits of members of the committees may be prescribed by the Minister with the approval of the Minister of Finance.

**[NB:** S. 132 has been substituted by s. 40 of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDLEX.]

## **CHAPTER 18 RIGHT OF APPEAL (s 133)**

### **133 Right of appeal**

(1) Any person-

(a) whose application for a competency certificate, licence, permit or authorisation in terms of this Act has been refused;

(b) whose competency certificate, licence, permit, or authorisation has been cancelled;

(c) whose licence, permit or authorisation has been issued subject to any condition; or

(d) who has received a notice of an administrative decision in terms of this Act which may detrimentally affect his or her rights,

[Date of commencement of para. (d): 1 July 2003.]

may, in the prescribed manner, appeal to the Appeal Board.

(2) The Appeal Board may confirm, vary or reverse any decision against which an appeal has been lodged in terms of this section.

[Date of commencement of sub-s. (2): 1 July 2003.]

(3) The Appeal Board may admit evidence of facts not before the Registrar when he or she made the decision which is the subject of the appeal only if-

- (a) there is a reasonable explanation for the failure timeously to inform the Registrar of the facts; and
- (b) the Registrar has had sufficient opportunity to verify the facts and to present any evidence to the Appeal Board in this regard.

[Date of commencement of sub-s. (3): 1 July 2003.]

(4) Subject to the provisions of this Act, no person is excused from complying with any of the provisions of this Act on the ground that an appeal is pending in terms of this section.

[Date of commencement of sub-s. (4): 1 July 2003.]

**[NB: A sub-s. (5) has been added by s. 41 of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDLEX.]**

## **CHAPTER 19** **COMPENSATION (ss 134-137)**

### **134 Circumstances where no compensation is payable in respect of firearms and ammunition forfeited to State**

No compensation is payable to a person in respect of a firearm or ammunition forfeited to the State in terms of this Act-

- (a) if the relevant licence, permit or authorisation was cancelled in terms of this Act because the holder of the licence had contravened or not complied with a provision of this Act or a condition specified in that licence, permit or authorisation; or
- (b) if the holder of the licence, permit or authorisation became or was in terms of section 102 or 103 declared unfit to possess a firearm.

### **135 Circumstances where no compensation is payable in respect of firearms and ammunition seized by State**

(1) No compensation is payable to a person from whom a firearm or ammunition was seized by the State if-

- (a) no licence, permit or authorisation had been issued for such firearm or ammunition to that person in terms of this Act; or
- (b) the firearm or ammunition was for any other reason unlawfully in the possession of that person.

(2) The lawful owner of a firearm or ammunition lost or stolen as a result of his or her negligence is not entitled to claim compensation if such firearm or ammunition is subsequently seized by the State from another person.

**[NB: S. 135 has been substituted by s. 42 of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDLEX.]**

### **136 No compensation payable where firearms or ammunition are destroyed by State**

(1) The Registrar may in respect of any firearm or ammunition seized by, surrendered to or forfeited to the State, issue a notice in the *Gazette* stating that it is the intention of the State to destroy that firearm or ammunition.

(2) Any person who has a valid claim to the relevant firearm or ammunition may, within 21 days after the publication of the notice in the *Gazette*, make representations to the Registrar as to why the firearm or ammunition should not be destroyed.

(3) If the Registrar is satisfied, after consideration of any representations contemplated in subsection (2), that a valid claim to the relevant firearm or ammunition has not been proved, the firearm or ammunition may be destroyed and no compensation will be payable to anyone in respect thereof.

**[NB:** S. 136 has been substituted by s. 43 of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDLEX.]

### **137 Application for compensation**

(1) A person whose firearm has been surrendered or forfeited to the State in circumstances other than those referred to in sections 134, 135 and 136 may apply to the Registrar for compensation in respect of that firearm in the prescribed form.

**[NB:** Sub-s. (1) has been substituted by s. 44 of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDLEX.]

(2) On receipt of an application for compensation made in terms of this section, the Registrar must-

- (a) decide whether or not compensation is payable in terms of this Chapter;
- (b) if compensation is payable, attempt to agree with the applicant on the amount of compensation to be paid; and
- (c) if compensation is payable, but no compensation is agreed upon, determine the amount of compensation to be paid.

(3) An applicant for compensation may appeal against a decision of the Registrar made in terms of subsection (2) (c).

(4) On receipt of an appeal lodged in terms of subsection (3) the Appeal Board must-

- (a) hear the applicant and the Registrar; and
- (b) determine the amount of compensation to be paid.

(5) The Minister must, with the approval of the Minister of Finance, establish guidelines<sup>i</sup> for the payment of compensation, taking into account the-

- (a) financial constraints on the State and its ability to meet actual and anticipated claims for compensation; and
- (b) interests of persons who have applied or may in the future apply for compensation.

(6) The guidelines referred to in subsection (5) bind-

- (a) the Registrar when he or she agrees or determines compensation in terms of subsection (2); and
- (b) the Appeal Board when it determines compensation in terms of subsection (4).

(7) A person who is not satisfied with the amount of compensation or the time or manner of payment as determined by the Appeal Board, may approach a court to determine the amount, the time and the manner of payment of the compensation.

## **CHAPTER 20 SPECIAL POWERS RELATING TO AMNESTIES AND FIREARM-FREE ZONES (ss 138-140)**

### **138 Definition**

In this Chapter '**amnesty**' means an indemnity against prosecution for the unlawful possession of a firearm or ammunition.

### 139 Amnesty

- (1) The Minister may, by notice in the *Gazette*, declare an amnesty if-
  - (a) the amnesty may result in the reduction of the number of illegally possessed firearms in South Africa; and
  - (b) it is in the public interest to do so.
- (2) A notice contemplated in subsection (1)-
  - (a) will only be valid if it is approved by Parliament;
  - (b) must specify the period during which persons may apply for amnesty; and
  - (c) must specify the conditions under which amnesty may be granted.
- (3) A person who surrenders a firearm or ammunition in compliance with a notice published in terms of subsection (1), may not be prosecuted in relation to-
  - (a) the firearm, for having been in possession of that firearm without the appropriate licence, permit or authorisation; or
  - (b) the ammunition, for having been in possession of that ammunition without having been in lawful possession of a firearm capable of discharging the ammunition.
- (4) (a) A person who surrenders a firearm in compliance with a notice published in terms of subsection (1) may apply in terms of this Act for a licence in respect of that firearm.  
(b) If a licence is granted, the firearm and ammunition, if any, surrendered in terms of this Act must be returned to the holder of the licence.
- (5) The Registrar must dispose of any firearm or ammunition surrendered in compliance with a notice in terms of subsection (1) in such manner and after the expiry of such period as may be prescribed.

### 140 Firearm-free zones

- (1) The Minister may, after consultation with the National Commissioner and the Secretary for the Police Service, by notice in the *Gazette* declare any premises or categories of premises to be firearm-free zones, if it is-
  - (a) in the public interest; and
  - (b) in accordance with the objects of this Act.
- (2) Unless authorised to do so in terms of a notice issued under subsection 20 (1), no person may-
  - (a) allow any firearm or ammunition to be in a firearm-free zone;
  - (b) carry any firearm or ammunition in a firearm-free zone; or
  - (c) store any firearm or ammunition in a firearm-free zone.

**[NB:** Sub-s. (2) has been substituted by s. 45 of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDLEX.]
- (3) A police official may, without warrant-
  - (a) search any building or premises in a firearm-free zone if he or she has a suspicion on reasonable grounds that a firearm or ammunition may be present in the firearm-free zone in contravention of a notice issued in terms of subsection (1);
  - (b) search any person present in a firearm-free zone; and



- (c) seize any firearm or ammunition present in the firearm-free zone or on the person in contravention of a notice issued in terms of subsection (1).

**[NB:** Sub-s. (3) has been substituted by s. 45 of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDLEX.]

(4) The Minister may prescribe measures to be taken regarding the demarcation of and placing of signposts on premises constituting a firearm-free zone in order to notify the public that the premises are declared a firearm-free zone.

[Sub-s. (4) added by s. 17 of Act 43 of 2003.]

[Date of commencement of s. 140: 1 June 2001.]

## **CHAPTER 21**

### **GENERAL PROVISIONS (ss 141-154)**

#### **141 Delegation of powers and assignment of duties**

(1) The Registrar may delegate any power conferred on him or her and assign any duty imposed on him or her by or under this Act to any official in the service of the State.

(2) An official to whom a power has been delegated or a duty has been assigned in terms of subsection (1) must exercise the power or perform the duty subject to the control and directions of the Registrar.

(3) The Registrar may, notwithstanding a delegation or assignment in terms of subsection (1), personally exercise the power or perform the duty delegated or assigned to another official.

[Date of commencement of s. 141: 1 July 2003.]

#### **142 Designation as police officials**

For purposes of this Act, the Minister may in writing designate any person or any category of persons employed by the State, as police officials.

#### **143 Service of documents**

(1) Any notice or other document to be served on or given to any person in terms of this Act may be-

- (a) delivered by hand to that person;
- (b) left at that person's usual or last known place of residence or business;
- (c) left at an address specified by that person for the purpose of any application made in terms of this Act;
- (d) posted by certified mail addressed to that person by name at that person's last known place of residence or business or at a postal address specified by that person for the purpose of any application made in terms of this Act;
- (e) delivered to any legal representative or other agent of that person who is duly authorised by that person to receive it;
- (f) if the relevant person is deceased, delivered to that person's legal representative or to the executor of his or her estate; or
- (g) if the relevant person is absent from South Africa, delivered to that person's legal representative or agent in South Africa or served in such manner as may be prescribed by regulation.

(2) This section does not apply to notices or other documents served or given during the course of any proceedings in a court of law or to notices in terms of section 122.

[Date of commencement of s. 143: 1 July 2003.]

## 144 Return of service

A document purporting to be signed by a police official, or person designated under section 142, indicating that the service was effected in accordance with section 143 (1) by the person who has signed the document, is upon production in a court by any person, *prima facie* evidence of service of the document.

[Date of commencement of s. 144: 1 July 2003.]

## 145 Regulations

(1) The Minister may, by notice in the *Gazette*, make regulations regarding-

(a) anything that may or must be prescribed in terms of this Act;

[Date of commencement of para. (a): 1 July 2003.]

(b) the surrendering of firearms and ammunition to the South African Police Service;

**[NB:** Para. (b) has been substituted by s. 46 (a) of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDING.]

(c) the production of any firearm to which any application relates for the purpose of identification, and the discharging of ammunition for identification purposes;

**[NB:** Para. (c) has been substituted by s. 46 (a) of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDING.]

(d) the determination and payment of fees payable in respect of the issue or renewal of any competency certificate, licence, permit or authorisation or in respect of anything else for which a fee may be charged in terms of this Act;

(e) the fees or remuneration which may be charged by dealers in respect of any firearm, or other device, required to be disposed of through a dealer in terms of this Act;

**[NB:** Para. (e) has been substituted by s. 46 (b) of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDING.]

(f) the security of any premises at which dealers, manufacturers, gunsmiths, importers and exporters of firearms and ammunition, Official Institutions or persons who use firearms for business purposes conduct business, including precautions and procedures to be taken to prevent the theft or unlawful use of firearms and ammunition in the possession of such persons;

(g) precautions to be taken in respect of the carriage, use, safe custody or destruction of firearms and ammunition;

(h) the surrender and disposal of competency certificates, licences, permits or authorisations issued in terms of this Act which have been suspended, revoked or cancelled or which have ceased to be valid;

(i) the notification of change of address;

(j) the acquisition, disposal, possession, import or export of equipment and material designed for the loading of ammunition;

(k) the taking of fingerprints;

[Date of commencement of para. (k): 1 July 2003.]

(l) the periods for and the manner in which, and by whom, documentation contemplated in this Act must be retained;

[Date of commencement of para. (l): 1 July 2003.]

(m) the training and testing and such other measures as may be necessary to ensure the competency of employees of an Official Institution who may possess and use firearms under the control of the Official Institution; and

(n) generally with regard to any other matter which it is necessary or expedient to prescribe in order to achieve or promote the objects of this Act.

[Date of commencement of para. (n): 1 July 2003.]

(2) A regulation may provide for a penalty for any contravention thereof or failure to comply therewith, of a fine or imprisonment for a period not exceeding 12 months or both a fine and such imprisonment.

[Date of commencement of sub-s. (2): 1 July 2003.]

(3) A regulation regarding the determination of fees may be made only with the approval of the Minister of Finance.

(4) In making regulations, other than those relating to the payment of fees, the Minister may differentiate between different areas in South Africa.

#### **146 Disposal of firearms in case of ceasing to carry on business**

If a person who holds a licence issued in terms of section 20 or who holds a licence, permit or authorisation contemplated in Chapter 7 or 8, ceases to carry on business for any reason, the firearms and ammunition in possession of that person must be kept in safe custody by the person and at the place designated by the Registrar, until they are disposed of as prescribed.

[NB: S. 146 has been substituted by s. 47 of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDLEX.]

#### **147 Disposal of firearms in case of death**

(1) In the case of the death of the holder of a firearm licence, the firearm in question must be disposed of as prescribed.

(2) The executor of the estate of a deceased person who comes into possession of a firearm licensed to the deceased must store the firearm as prescribed.

[NB: Sub-s. (2) has been substituted by s. 48 of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDLEX.]

#### **148 Inherited firearms**

(1) A person who inherits a firearm or muzzle loading firearm must-

- (a) if he or she wishes to keep the firearm, apply for an appropriate licence, permit or authorisation in terms of this Act;
- (b) if he or she wishes to keep the muzzle loading firearm, obtain the necessary competency certificate in order to possess the muzzle loading firearm; or
- (c) if he or she does not wish to acquire the firearm or muzzle loading firearm, or fails to obtain the appropriate licence, permit or authorisation or competency certificate, have the firearm or muzzle loading firearm deactivated or dispose of it in terms of this Act.

[Sub-s. (1) substituted by s. 49 of Act 28 of 2006.]

(2) The Registrar may issue a temporary authorization contemplated in section 21, to allow a person who inherits a firearm a reasonable time to dispose of it.

#### **149 Compulsory destruction of firearms, muzzle loading firearms and ammunition**

(1) A firearm or muzzle loading firearm may only be destroyed as prescribed.

(2) Any firearm, muzzle loading firearm or ammunition forfeited to the State in terms of this Act-

- (a) must be destroyed by the State within six months of the date of the forfeiture or after all possible appeals have been concluded or the last date on which any appeal could have been noted has passed without an appeal having been noted, whichever occurs last; and
- (b) remains the property of the owner thereof until its destruction.

(3) (a) Despite subsection (2), the State may retain any firearm, muzzle loading firearm or ammunition forfeited to the State, which the Registrar deems to be of special value.

(b) Any firearm, muzzle loading firearm or ammunition retained by the Registrar in terms of paragraph (a) becomes the property of the State when the Registrar informs the former owner of the firearm, muzzle loading firearm or ammunition of that fact.

(c) Subject to Chapter 19, the former owner of any firearm, muzzle loading firearm or ammunition which becomes the property of the State in terms of paragraph (b) may apply for compensation in terms of this Act.

(4) (a) Subject to subsection (1) no person, including the State, may destroy a firearm or muzzle loading firearm without the prior written permission of the Registrar.

(b) The Registrar must only consent to the destruction of a firearm, muzzle loading firearm or ammunition with due regard to and in compliance with the provisions of the National Heritage Resources Act, 1999 (Act 25 of 1999), and any condition which may be imposed by the South African Heritage Resources Agency or their nominated agents.

[S. 149 substituted by s. 50 of Act 28 of 2006.]

### 150 Deactivation of firearms or muzzle loading firearms

[Heading substituted by s. 51 (a) of Act 28 of 2006.]

(1) For purposes of this section **'to deactivate'** means to render permanently inoperable and **'deactivation'** has a corresponding meaning.

(2) A firearm or muzzle loading firearm may only be deactivated by a gunsmith in the prescribed manner.

[Sub-s. (2) substituted by s. 51 (b) of Act 28 of 2006.]

(3) If a firearm or muzzle loading firearm is deactivated by a gunsmith--

- (a) the gunsmith must issue a certificate to that effect indicating the manner in which the deactivation was performed;
- (b) the holder of the licence in respect of the firearm in question must notify the Registrar within 14 days after such deactivation, and at the same time forward to the Registrar a copy of the deactivation certificate; and
- (c) the gunsmith must notify the Registrar within 14 days after any deactivation done by him or her, and at the same time forward to the Registrar a copy of the deactivation certificate.

[Sub-s. (3) amended by s. 51 (c) of Act 28 of 2006.]

(4) (a) The Minister may, by notice in the *Gazette*, determine that a certificate of deactivation which is valid in a country other than the Republic is a valid certificate of deactivation in the Republic.

(b) A notice contemplated in paragraph (a) must be approved by Parliament before publication thereof.

### 151 Jurisdiction of magistrates' courts

Despite any law to the contrary, any magistrates' court has jurisdiction to impose any penalty provided for in terms of this Act.

[Date of commencement of s. 151: 1 July 2003.]

### 152 Act binds State

This Act binds the State.

[Date of commencement of s. 152: 1 July 2003.]

## 153 Repeal of laws

Subject to Schedule 1, the laws mentioned in the first column of Schedule 3 are hereby repealed to the extent mentioned in the third column of Schedule 3.

[S. 153 substituted by s. 18 of Act 43 of 2003.]

## 154 Short title and commencement

This Act is called the Firearms Control Act, 2000, and comes into effect on a date to be fixed by the President by proclamation in the *Gazette*.

### Schedule 1 TRANSITIONAL PROVISIONS

[Schedule 1 amended by ss. 19 and 20 of Act 43 of 2003 and by s. 52 of Act 28 of 2006.]

#### 1 Existing licence to possess an arm

(1) Subject to subitem (2) and item 11, any licence which was issued in terms of the previous Act and which was valid immediately before the date of the commencement of this Act, remains valid for a period of five years from the date on which this Act comes into operation, unless such licence is terminated, cancelled or surrendered in terms of this Act.

(2) (a) The holder of a licence to possess an arm contemplated in subitem (1) must, before the end of the period contemplated in that subitem, in a lawful manner dispose of any firearms in his or her possession in excess of the number that he or she may lawfully possess in terms of this Act.

(b) For the purpose of paragraph (a), section 31 (2) does not apply.

(3) Any firearm not disposed of as contemplated in subitem (2) may be forfeited to the State and must be disposed of in the prescribed manner.

#### 1A Muzzle loading firearms

(1) A person who possesses a muzzle loading firearm must apply within one year from the date of commencement of section 52 of the Firearms Control Amendment Act, 2006,<sup>ii</sup> for the relevant competency certificate to possess a muzzle loading firearm in terms of this Act.

(2) No prosecution may be instituted during the period referred to in subitem (1) against any person found in possession of a muzzle loading firearm without having been issued with a relevant competency certificate.

(3) The period referred to in subsection [sic] (1) may be extended by the Minister for such period as the Minister may determine by notice in the *Gazette*.

(4) If the application for a competency certificate has been lodged within the period provided for in subitem (1), or the extended period referred to in subitem (3), the possession of the muzzle loading firearm remains lawful until the application for a competency certificate is decided.

[Item 1A inserted by s. 52 of Act 28 of 2006.]

#### 2 Existing dealer's licence

Subject to item 11, any licence issued in terms of section 19 (1) of the previous Act or transferred in terms of section 20 of that Act or any temporary licence issued in terms of section 19A (1) of the previous Act, which was valid immediately before the date of commencement of this Act, remains valid for one year from that date, unless it is terminated, cancelled or surrendered in terms of this Act.

#### 3 Existing permit for importation or exportation of arms and ammunition

Subject to item 11, any permit issued in terms of section 26 (1) or 32 (1) of the previous Act, which was valid immediately before the commencement of this Act, remains valid for the period specified in that permit, unless terminated, cancelled or surrendered in terms of this Act.

#### **4 Existing permit for manufacture of arms and ammunition**

Subject to item 11, any permit issued in terms of section 30 of the previous Act, which was valid immediately before the commencement of this Act, remains valid for one year from that date, unless terminated, cancelled or surrendered in terms of this Act.

#### **4A Existing registration certificate to carry on trade of gunsmith**

Subject to item 11, any registration certificate to carry on the trade of gunsmith, issued in terms of regulation 14 (4) of the regulations made under the previous Act, which was valid immediately before the date of commencement of this Act, remains valid for one year from that date, unless terminated, cancelled or surrendered in terms of this Act.

[Item 4A inserted by s. 19 of Act 43 of 2003.]

#### **5 Existing authorisations and certain existing permits**

Subject to item 11, any authorisation issued in terms of section 3 (5) or 33A (1) of the previous Act or any permit issued in terms of the previous Act other than a permit contemplated in item 3 or 4, which was valid immediately before the commencement of this Act, remains valid for the period specified in the authorisation or permit, as the case may be, unless terminated, cancelled or surrendered in terms of this Act.

#### **6 Person unfit to possess a firearm**

(1) Any person declared to be unfit to possess an arm in terms of the previous Act must be regarded as having been declared unfit to possess a firearm in terms of this Act.

(2) Despite items 1, 2, 3, 4 and 5, any person holding a licence contemplated in any of those items may in terms of this Act become or be declared unfit to possess a firearm.

#### **7 Register in terms of previous Act to be kept by Registrar**

(1) The register kept in terms of section 42 of the previous Act must be maintained by the Registrar for such period as may be necessary.

(2) A certificate purporting to be signed by the Commissioner or any person acting under his or her authority stating any fact recorded in the register referred to in subitem (1) is upon production in a court by any person, *prima facie* evidence of the fact so stated.

#### **8 Matters pending under previous Act**

(1) Subject to subitems (2) and (3), this Act does not affect any proceedings instituted in terms of the previous Act which were pending in a court of law immediately before the date of commencement of this Act, and such proceedings must be disposed of in the court in question as if this Act had not been passed.

(2) Proceedings contemplated in subitem (1) must be regarded as having been pending if the person concerned had pleaded to the charge in question.

(3) No proceedings may continue against any person in respect of any contravention of a provision of the previous Act if the alleged act or omission constituting the offence would not have constituted an offence if this Act had been in force at the time when the act or omission took place.

(4) (a) Despite the repeal of the previous Act, any person who, before such repeal, committed an act or omission which constituted an offence under that Act and which

constitutes an offence under this Act, may after this Act takes effect be prosecuted under the relevant provisions of this Act.

(b) Despite the retrospective application of this Act as contemplated in paragraph (a), any penalty imposed in terms of this Act in respect of an act or omission which took place before this Act came into operation may not exceed the maximum penalty which could have been imposed on the date when the act or omission took place.

## **9 Investigations by Commissioner under previous Act**

(1) An investigation by the Commissioner in terms of the previous Act which has not been completed when this Act commences, must be discontinued.

(2) Any act or omission committed prior to the coming into operation of this Act, which constituted grounds for declaring a person unfit to possess an arm, must be regarded as constituting grounds for declaring a person unfit to possess a firearm in terms of this Act.

## **10 Consideration of validity of existing licence, permit and authorisation**

(1) Despite this Schedule, the Registrar may at any time notify any person who holds a licence, permit or authorisation contemplated in item 1, 2, 3, 4 or 5 that he or she intends investigating the validity of that licence, permit or authorisation.

(2) The person notified must on a date specified in the notice furnish the Registrar-

- (a) with the original licence, permit or authorisation in question, against the issue of a receipt; and
- (b) with such additional information as may be required in terms of the notice.

(3) If the Registrar finds that the licence, permit or authorisation was not validly issued, the holder of the licence, permit or authorisation must, if applicable and against the issue of a receipt, surrender the firearm in question to a police official at a police station specified by the Registrar in a written notice to the holder.

(4) The firearm must be disposed of as prescribed after the expiration of a period of six months after the date of surrender or after all possible appeals have been concluded or the last date on which any appeal could have been noted has passed without an appeal having been noted, whichever occurs last.

(5) The Registrar may declare the holder referred to in subitem (3) to be unfit to possess a firearm, in which case the provisions of Chapter 12 of this Act apply with the necessary changes.

(6) Any person who fails to comply with subitem (2) or (3) is guilty of an offence and is liable on conviction to a fine or to imprisonment for a period not exceeding one year or to both a fine and such imprisonment.

## **11 Renewal of licence**

(1) (a) The holder of a licence, permit, certificate or authorisation contemplated in item 1, 2, 3, 4, 4A or 5 must apply for the corresponding licence, permit, certificate or authorisation in terms of this Act within the period determined by the Minister by notice in the *Gazette*.<sup>iii</sup>

(b) Different periods may be determined in terms of paragraph (a) in respect of-

- (i) different licences, permits, certificates or authorisations; and
- (ii) holders whose surnames start with different letters of the alphabet, or whose dates of birth fall in different months.

(c) The period contemplated in paragraph (a) must end before the end of the relevant period contemplated in item 1 (1) and may not exceed the period contemplated in item 2, 3, 4, 4A or 5.



(d) If an application for the renewal of a licence, permit, certificate or authorisation has been lodged within the period provided for in this section, the licence, permit, certificate or authorisation remains valid until the application is decided.

(2) An application for a licence, permit, certificate or authorisation contemplated in subitem (1) must in addition to any requirement in terms of this Act be accompanied by-

- (a) a certified copy of the existing licence, permit, certificate or authorisation; and
- (b) such other information as may be required.

(3) For purposes of this item, section 9 (2) (r) does not apply.

(4) Any holder of a licence, permit, certificate or authorisation who fails to apply for the renewal of his or her licence, permit, certificate or authorisation before the end of the period determined by the Minister in terms of subitem (1), is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding one year or to both a fine and such imprisonment.

[Item 11 substituted by s. 20 of Act 43 of 2003.]

## Schedule 2 CRIMES AND OFFENCES GIVING RISE TO UNFITNESS ENQUIRY BY COURT

(Section 103 (2))

1. High treason
2. Sedition
3. Malicious damage to property
4. Entering any premises with the intent to commit an offence under the common law or a statutory provision
5. Culpable homicide
6. Extortion
7. Any crime or offence-
  - (a) in terms of this Act or the previous Act, in respect of which an accused was not sentenced to a period of imprisonment without the option of a fine;
  - (b) in terms of the Domestic Violence Act, 1998 (Act 116 of 1998), in respect of which an accused was not sentenced to a period of imprisonment without the option of a fine;
  - (c) involving violence, sexual abuse or dishonesty, in respect of which an accused was not sentenced to a period of imprisonment without the option of a fine;
  - (d) in terms of the Explosives Act, 1956 (Act 26 of 1956), in respect of which an accused was not sentenced to a period of imprisonment without the option of a fine; or
  - (e) in terms of section 18 (1) (a) of the Protection from Harassment Act, 2011.
8. Any conspiracy, incitement or attempt to commit any offence referred to in this Schedule

[Para. (e) added by s. 22 of Act 17 of 2011.]

## Schedule 3 LAWS REPEALED

(Section 153)

[Schedule 3 amended by s. 21 of Act 43 of 2003.]

No and year of Act	Short title	Extent of repeal
Act 75 of 1969	Arms and Ammunition Act, 1969	The whole
Act 80 of 1971	General Law Amendment Act, 1971	Section 25



Act 35 of 1973	Arms and Ammunition Amendment Act, 1973	The whole
Act 94 of 1974	Second General Law Amendment Act, 1974	Section 48
Act 16 of 1978	Arms and Ammunition Amendment Act, 1978	The whole
Act 19 of 1983	Arms and Ammunition Amendment Act, 1983	The whole
Act 60 of 1988	Arms and Ammunition Amendment Act, 1988	The whole
Act 30 of 1990	Arms and Ammunition Amendment Act, 1990	The whole
Act 79 of 1991	Arms and Ammunition Amendment Act, 1991	The whole
Act 117 of 1992	Arms and Ammunition Acts Amendment Act, 1992	The whole
Act 65 of 1993	Arms and Ammunition Amendment Act, 1993	The whole
Act 177 of 1993	Arms and Ammunition Second Amendment Act, 1993	The whole
Act 7 of 1995	Arms and Ammunition Amendment Act, 1995	The whole
Act 8 of 1995	Arms, Ammunition and Armaments Transitional Regulation Act, 1995	The whole
Act 15 of 1999	Arms and Ammunition Amendment Act, 1999	The whole

### Schedule 4 PENALTIES

(Section 121)

[Schedule 4 amended by s. 22 of Act 43 of 2003.]

**[NB: Schedule 4 has been substituted by s. 53 of the Firearms Control Amendment Act 28 of 2006, a provision which will be put into operation by proclamation. See PENDLEX.]**

[Date of commencement of Schedule 4 in respect of the penalties under s. 140 (2): 1 June 2001.]

Section	Maximum period of imprisonment
3	15 years
4	25 years
12 (3)	Two years
13 (4)	Two years
14 (5)	Five years
15 (4)	Two years
16 (3)	Two years
16 (4)	Two years
17 (3) (a)	Two years
17 (3) (b)	Three years
17 (4)	Two years
18 (2) (b)	Five years
18 (3)	Five years
18 (4) (a)	Two years
18 (4) (b)	Three years
19 (3)	Five years
19 (4) (a)	Two years
19 (4) (b)	Three years
19 (5)	Five years
19 (6)	Five years
20 (4)	Five years
20 (5) (a)	Five years
20 (5) (b)	25 years
20 (6) (a)	Five years
20 (6) (b)	Five years
20 (7)	Two years
20 (8)	.....
21 (4)	Two years
21 (5)	Five years

23 (5)	10 years
23 (6)	Five years
25 (1)	Two years
26 (1)	Two years
28 (4)	10 years
28 (5)	10 years
29 (1)	Two years
29 (2)	Two years
31 (1)	25 years
31 (2)	25 years
31 (3)	15 years
32 (2)	Four years
36 (6)	Two years
38	Two years
39 (1)	Four years
39 (2)	Four years
39 (3)	Five years
39 (4)	Two years
39 (5)	Three years
39 (6)	Three years
39 (8)	Three years
39 (9)	15 years
41 (4)	25 years
42 (4)	25 years
42 (5)	25 years
44 (1)	Two years
44 (2)	Two years
45 (1)	25 years
45 (2)	25 years
50 (6)	Two years
52	Two years
53 (1)	Four years
53 (2)	Five years
53 (3)	Three years
53 (4)	Two years
53 (5)	Two years
53 (6)	Three years
53 (7)	15 years
55 (4)	25 years
56 (4)	25 years
56 (5)	25 years
58 (1)	Two years
58 (2)	Two years
59	15 years
64 (6)	Two years
66	Two years
67 (1)	Two years
67 (2)	Five years
67 (3)	Two years
67 (4)	Three years

67 (5)	Three years
67 (7)	Three years
67 (8)	15 years
69 (4)	25 years
70 (4)	25 years
70 (5)	.....
72 (1)	Two years
72 (2)	Two years
73 (1)	15 years
73 (2)	15 years
78 (1)	Two years
78 (2)	Three years
78 (3)	Three years
78 (4)	15 years
80 (4)	25 years
82 (1)	Two years
82 (2)	Two years
83	15 years
84	Two years
85 (1)	25 years
87 (1)	Two years
87 (2)	Two years
87 (3)	Two years
88 (2)	25 years
90	15 years
91 (1)	10 years
93 (2)	10 years
93 (3)	10 years
94 (2)	Five years
94 (3)	Two years
98 (1)	Two years
98 (5)	Two years
98 (7)	Two years
104 (2)	15 years
106 (1)	Two years
107 (1)	10 years
107 (2)	One year
108 (1)	One year
120 (2)	15 years
120 (3)	Five years
120 (4)	Three years
120 (5)	Three years
120 (6)	10 years
120 (7)	Five years
120 (8)	Five years
120 (9)	Five years
120 (10) (a)	10 years
120 (10) (b)	25 years
120 (11)	10 years
120 (12)	Five years

140 (2) (a)	Five years
140 (2) (b)	10 years
140 (2) (c)	25 years
146	15 years
147 (1)	Five years
147 (3)	.....
147 (4)	.....
147 (2)	Five years
148	25 years
149 (1)	10 years
150 (2)	Five years
150 (3) (a)	Two years
150 (3) (b)	Two years
150 (3) (c)	Two years

**PENDLEX: Firearms Control Act 60 of 2000 after amendment by the Firearms Control Amendment Act 28 of 2006**

**Section 1 - definitions**

**'ammunition'** means a primer or cartridge;

**'cartridge'** means a complete object consisting of a cartridge case, primer (whether rimfire or otherwise), propellant and a bullet or shot, as the case may be;

**'dispossession'**, for the purposes of section 118, means selling, supplying or in any other manner giving possession in contravention of section 120 (10) (a);

**'fit and proper person'** means a person who complies with the requirements of section 9 (2) and any regulations relevant to the competency of a person to possess a firearm in terms of this Act;

**'occasional hunter'** means any person who, from time to time, participates in hunting activities;

**'occasional sports person'** means any person who, from time to time, participates in sports-shooting;

**'Secretary for the Police Service'** means the Secretary for the Police Service appointed in terms of section 7 (1) of the Civilian Secretariat for Police Service Act, 2010 [sic];

[Definition of 'Secretary for the Police Service', previously 'Secretary for Safety and Security' substituted by s. 35 of Act 2 of 2011.]

**Section 6 (1) (a)**

on receipt of an application completed in the prescribed form, including such fingerprints of the applicant as the Registrar may require; and

**Section 16 (1) (c) - deleted**

**Section 21 (2)**

(a) The Registrar may, subject to paragraph (b), at any time by written notice withdraw an authorisation if any condition contemplated in subsection (1) (b) is not complied with.

(b) A withdrawal notice contemplated in paragraph (a) may only be issued if the Registrar has-

- (i) given the holder of the authorisation notice in writing of the grounds on which the withdrawal is to be considered;

- (ii) informed the holder concerned in writing that he or she may submit written representations within 30 days as to why the authorisation should not be cancelled; and
- (iii) duly considered any representations received and all the facts pertaining to the matter.

### **Section 22 - Holder of licence may allow another person to use firearm**

Despite anything to the contrary in this Act but subject to section 120 (5), any person who is at least 21 years of age and the holder of a licence to possess a firearm or a competency certificate in respect of a muzzle loading firearm issued in terms of this Act may allow any other person to use that firearm or muzzle loading firearm while under his or her immediate supervision where it is safe to use the firearm or muzzle loading firearm and for a lawful purpose.

### **Section 42 (1) (a)**

upon the expiry of five years from the date on which it was issued;

### **Section 45 - Prohibition of unlicensed manufacture of firearms, muzzle loading firearms and ammunition**

(1) No person may manufacture any firearm, muzzle loading firearm or ammunition without a manufacturer's licence.

(2) A manufacturer may only sell firearms, muzzle loading firearms and ammunition to a dealer or to the State, and may export firearms, muzzle loading firearms and ammunition subject to section 73 (1).

### **Section 56 (1) (a)**

upon the expiry of five years from the date on which it was issued;

### **Section 70 (1) (a)**

upon the expiry of five years from the date on which it was issued;

### **Section 73 - Prohibition of import, export or carriage in-transit of firearms, muzzle loading firearms and ammunition without permit**

(1) No person may import into or export from South Africa any firearms, muzzle loading firearms or ammunition without an import or export permit issued in terms of this Act.

(2) No person may carry in transit through South Africa any firearms, muzzle loading firearms or ammunition without an in-transit permit issued in terms of this Act.

### **Section 88 (3)**

A notice contemplated in subsection (1) may only be issued if the Registrar has-

- (a) given the holder of the permit notice in writing of the grounds on which the withdrawal is to be considered;
- (b) informed the holder concerned in writing that he or she may submit written representations within 30 days as to why the permit should not be cancelled; and
- (c) duly considered any representations received and all the facts pertaining to the matter.

### **Section 94 (1)**

For the purposes of this section, '**firearm part**' means a slide, bolt or breech-block of a firearm, or a device designed to be attached to the barrel of a firearm in order to muffle or moderate the report of that firearm.

## **Section 96 (2)**

An application for the export of firearms and ammunition made in terms of this Act must be submitted by the Registrar to the National Conventional Arms Control Committee in accordance with section 4 (3) of the National Conventional Arms Control Act, 2002 (Act 41 of 2002).

## **Section 102 - heading**

Declaration by Registrar of person as unfit to possess firearm or muzzle loading firearm

### **Section 102 (1) - words preceding para. (a)**

The Registrar may declare a person unfit to possess a firearm or muzzle loading firearm if, on the grounds of information contained in a statement under oath or affirmation including a statement made by any person called as a witness, it appears that-

#### **Section 102 (1) (b)**

that person has expressed the intention to kill or injure himself or herself or any other person by means of a firearm, muzzle loading firearm or any other dangerous weapon;

#### **Section 102 (1) (c)**

because of that person's mental condition, inclination to violence or dependence on any substance which has an intoxicating or narcotic effect, the possession of a firearm or muzzle loading firearm by that person is not in the interests of that person or of any other person;

#### **Section 102 (1) (f)**

that person has paid an admission of guilt fine contemplated in section 103 (6) in respect of an offence contemplated in section 103 (1) or 103 (2) (a).

### **Section 102 (2) (a)**

by notice in writing delivered by hand to the person, has called upon the person to appear before the Registrar at a time and place determined therein in order to advance reasons as to why that person should not be declared unfit to possess a firearm or muzzle loading firearm;

### **Section 102 (2) (c)**

has duly considered the matter having regard to-

- (i) any reasons, submissions and evidence advanced under oath or affirmation by or on behalf of that person; or
- (ii) any other information contained in a statement under oath or affirmation or evidence at his or her disposal;

### **Section 102 (2) (e)**

does not rely solely on the same facts relating to a conviction in respect of which a court has made a determination in terms of section 103 (1) or (2) that the person is not unfit to possess a firearm or muzzle loading firearm.

### **Section 102 (2A)**

Upon proof that the notice contemplated in subsection (2) (a) was duly delivered or tendered to the person to whom it was addressed, the Registrar may proceed with an inquiry at the time specified in that notice, whether or not the person concerned complies with the notice.

## **Section 103 - heading**

Declaration by court of person to be unfit to possess firearm or muzzle loading firearm

**Section 103 (1) - words preceding para. (a)**

Unless the court determines otherwise, a person becomes unfit to possess a firearm or muzzle loading firearm if convicted of-

**Section 103 (1) (a)**

the unlawful possession of a firearm or ammunition or muzzle loading firearm;

**Section 103 (1) (b)**

any crime or offence involving the unlawful use or handling of a firearm or muzzle loading firearm, whether the firearm or muzzle loading firearm was used or handled by that person or by another participant in that offence;

**Section 103 (1) (e)**

an offence involving the handling of a firearm or muzzle loading firearm while under the influence of any substance which has an intoxicating or narcotic effect;

**Section 103 (1) (f)**

any other crime or offence in the commission of which a firearm or muzzle loading firearm was used, whether the firearm or muzzle loading firearm was used or handled by that person or by another participant in the offence;

**Section 103 (6)**

This section does not apply in respect of the payment of an admission of guilt fine in terms of section 57 of the Criminal Procedure Act, 1977 (Act 51 of 1977).

**Section 103 (7)**

When a person becomes or is declared unfit to possess a firearm or muzzle loading firearm in terms of this section, the court dealing with the case must determine the duration of unfitness, which duration must depend on the seriousness of the conduct which gave rise to the unfitness and which may not be less than 10 years calculated from the date of conviction.

**Section 104 (2) - words preceding para. (a)**

A person who becomes or is declared unfit to possess a firearm or muzzle loading firearm in terms of section 102 or 103 must within 24 hours surrender to the nearest police station-

**Section 104 (2) (b)**

all firearms or muzzle loading firearms in his or her possession;

**Section 104 (3)**

(a) A person who has surrendered his or her firearm or muzzle loading firearm as contemplated in subsection (2) must dispose of the firearm and ammunition or muzzle loading firearm through a dealer or in such manner as the Registrar may determine-

- (i) if an appeal is lodged and that appeal is unsuccessful, within 60 days of the finalisation of the appeal; or
- (ii) if no appeal is lodged, within 60 days of the receipt of a written notice from the Registrar informing the person of his or her unfitness to possess a firearm or muzzle loading firearm.

(b) If the firearm and ammunition or muzzle loading firearm are not disposed of within 60 days, they must be forfeited to the State and destroyed or disposed of as prescribed.

(c) The period of 60 days referred to in this subsection may be extended by the Registrar on good cause shown.

(d) For the purposes of paragraph (a), the Registrar must release the firearm and ammunition or muzzle loading firearm in question to a dealer identified by the relevant person, for disposal by that dealer on behalf of the person. and

#### **Section 104 (5)**

If the decision leading to the status of unfitness to possess a firearm or muzzle loading firearm of any person is set aside, any seized or surrendered firearm, ammunition, muzzle loading firearm, licence, permit or authorisation belonging to any such person, must be returned.

#### **Section 104 (6)**

Subject to sections 9 (3) (b) and 103 (7) and after a period of five years calculated from the date of the decision leading to the status of unfitness to possess a firearm or muzzle loading firearm, the person who has become or been declared unfit to possess a firearm or muzzle loading firearm may apply for a new competency certificate, licence, authorisation or permit in accordance with the provisions of this Act.

#### **Section 110 (1)**

Chapter 2 of the Criminal Procedure Act, 1977 (Act 51 of 1977), applies with the necessary changes to the entry of premises, search for and seizure of any firearm, muzzle loading firearm, imitation firearm, airgun, device or ammunition referred to in this Act.

#### **Section 110 (2)**

In the application of Chapter 2 of the Criminal Procedure Act, 1977 (Act 51 of 1977), as contemplated in subsection (1), section 20 of the said Act must be construed as if the following paragraph had been added to it:

- '(d) which is a firearm, muzzle loading firearm or ammunition as defined in section 1 of the Firearms Control Act, 2000, and is on reasonable grounds believed to be in the possession or under the control of a person, who by reason of any physical or mental condition, is incapable of having proper control of any firearm, muzzle loading firearm or ammunition or who by such reason presents a danger of harm to himself or herself or to any other person.'

#### **Section 111 (1) - words preceding para. (a)**

Despite anything to the contrary in this Chapter, any police official or person authorised as such by the National Commissioner or any provincial commissioner of the South African Police Service, may, in the course of official policing operations contemplated in section 13 (6), (7) or (8) of the South African Police Service Act, 1995 (Act 68 of 1995), search any person, premises, container, vehicle, vessel or aircraft and seize any firearm, muzzle loading firearm, imitation firearm, airgun, device or ammunition-

#### **Section 113 (4)**

A police official may do such tests, or cause such tests to be done, as may be necessary to determine whether a person suspected of having handled or discharged a firearm or muzzle loading firearm has indeed handled or discharged a firearm or muzzle loading firearm.

#### **Section 114 - Ballistic testing**

(1) Any police official may seize, test-fire and examine such number of firearms or muzzle loading firearms as are necessary or such ammunition as is necessary, if-

- (a) there are reasonable grounds to suspect that one or more of the firearms or muzzle loading firearms or the ammunition has been used in the commission of an offence



which is punishable in terms of this Act with imprisonment for a period of five years or longer; and

- (b) there are reasonable grounds to believe that one or more of the firearms or muzzle loading firearms or the ammunition or the results of the test-firing and examination, will be of value in the investigation by excluding or including-
- (i) one or more of those firearms or muzzle loading firearms or the ammunition as having been used in the commission of the offence; or
  - (ii) one or more persons as possible perpetrators of the offence.

(2) The person who has control over a firearm, muzzle loading firearm or ammunition seized in terms of this section must immediately return it or otherwise dispose of it in terms of this Act when it is clear that it will not be of value as evidence.

#### **Section 117 (2) - words preceding para. (a)**

Whenever a person is charged in terms of this Act with an offence of which the possession of a firearm, muzzle loading firearm or ammunition is an element, and the State can show that despite the taking of reasonable steps it was not able with reasonable certainty to link the possession of the firearm, muzzle loading firearm or ammunition to any other person, the following circumstances will, in the absence of evidence to the contrary which raises reasonable doubt, be sufficient evidence of possession by that person of the firearm, muzzle loading firearm or ammunition where it is proved that the firearm or ammunition or muzzle loading firearm was found-

#### **Section 117 (2) (c) (iii)**

present in the immediate vicinity of the place on the premises where the firearm, muzzle loading firearm or ammunition was found and the circumstances indicate that the firearm, muzzle loading firearm or ammunition should have been visible to that person; or

#### **Section 117 (2) (c) (iv)**

in control of a locker, cupboard or other container within which the firearm, muzzle loading firearm or ammunition was found;

#### **Section 117 (2) (d) (iv)**

the consignor of any goods in or among which the firearm, muzzle loading firearm or ammunition was found;

#### **Section 117 (2) (d) (v)**

the only person who had access to the firearm, muzzle loading firearm or ammunition;

#### **Section 117 (2) (g) (ii)**

where the circumstances indicate that the firearm, muzzle loading firearm or ammunition should have been visible to no one besides the person;

#### **Section 117 (2) (h)**

on any vessel other than a vessel which was used to convey passengers for gain, and the person was, at the time-

- (i) in charge of that vessel or that part of the vessel in which the firearm, muzzle loading firearm or ammunition was found;
- (ii) ordinarily employed in the immediate vicinity of the place on the vessel where the firearm, muzzle loading firearm or ammunition was found; or

(iii) over the age of 16 years and present in that part of the vessel; or

#### **Section 117 (2) (i)**

in the cargo of a vessel and the person was, at the time-

- (i) in control of the cargo of the vessel; or
- (ii) the consignor of any goods in or among which the firearm, muzzle loading firearm or ammunition was found.

#### **Section 117 (3) (b)**

a firearm or muzzle loading firearm was discharged from that vehicle while the person was driving or was a passenger in the vehicle; and

#### **Section 118 (1)**

Whenever a person is charged with an offence in terms of this Act of failing to report the loss, theft or destruction of a firearm, or the dispossession of a firearm, and it is proved that such person was, at the time, the licensed or authorised possessor of the firearm alleged to have been lost, stolen, destroyed or dispossessed of, proof that the person has failed to produce such firearm within seven days of the request by a police official to do so, will, in the absence of evidence to the contrary which raises reasonable doubt, be sufficient evidence that the firearm has been lost, stolen, destroyed or dispossessed of.

#### **Section 120 (2) (a)**

Any person who is aware of the existence of a firearm, muzzle loading firearm or ammunition that is not in the lawful possession of any person and fails to report the location of the firearm, muzzle loading firearm or ammunition to a police official without delay, is guilty of an offence.

#### **Section 120 (3)**

It is an offence to-

- (a) cause bodily injury to any person or cause damage to property of any person by negligently using a firearm, a muzzle loading firearm or an airgun;
- (b) discharge or otherwise handle a firearm, a muzzle loading firearm or an airgun in a manner likely to injure or endanger the safety or property of any person or with reckless disregard for the safety or property of any person; or
- (c) have control of a loaded firearm, a muzzle loading firearm or an airgun in circumstances where it creates a risk to the safety or property of any person and not to take reasonable precautions to avoid the danger.

#### **Section 120 (4)**

It is an offence to handle a firearm, a muzzle loading firearm or an airgun while under the influence of a substance which has an intoxicating or a narcotic effect.

#### **Section 120 (5) - words preceding para. (a)**

A person is guilty of an offence if he or she gives control of a firearm, a muzzle loading firearm or an airgun to a person whom he or she knows, or ought reasonably to have known-

#### **Section 120 (6)**

It is an offence to point-

- (a) any firearm, a muzzle loading firearm or an airgun, whether or not it is loaded or capable of being discharged, at any other person, without good reason to do so; or
- (b) anything which is likely to lead a person to believe that it is a firearm, a muzzle loading firearm or an airgun at any other person, without good reason to do so.

### **Section 120 (7)**

It is an offence to discharge a firearm, a muzzle loading firearm or an airgun in a built-up area or any public place, without good reason to do so.

### **Section 120 (9) (e)**

use a competency certificate, licence, permit or authorisation issued in the name of another person to procure possession of a firearm, muzzle loading firearm or ammunition;

### **Section 120 (10) (a)**

sell, supply or in any other manner give possession of a firearm, muzzle loading firearm or ammunition to a person who is not allowed in terms of this Act to possess that firearm, muzzle loading firearm or ammunition; or

### **Section 120 (10) (b)**

be in possession of any firearm, imitation firearm, muzzle loading firearm or ammunition, with intent to commit an offence or to use the firearm, an imitation firearm or muzzle loading firearm to resist arrest or prevent the arrest of another person.

### **Section 132 - Establishment of Ministerial Consultative Forum**

The Minister may establish such consultative forums as may be appropriate to assist him or her in respect of any matter dealt with in this Act.

### **Section 133 (5)**

For the purposes of subsection (3), the Appeal Board shall where required by a party to an appeal or within its own discretion issue a notice calling upon any person to give evidence or produce any article, book, accounts or record before the Appeal Board, and such notice must have the force of a subpoena in a court of law.

### **Section 135 - Circumstances where no compensation is payable in respect of firearms, muzzle loading firearms and ammunition seized by State**

(1) No compensation is payable to a person from whom a firearm, muzzle loading firearm or ammunition was seized by the State if-

- (a) no licence, permit or authorisation had been issued for such firearm or ammunition to that person and in the case of a muzzle loading firearm, no competency certificate had been issued to that person in terms of this Act; or
- (b) the firearm, muzzle loading firearm or ammunition was for any other reason unlawfully in the possession of that person.

(2) The lawful owner of a firearm or muzzle loading firearm or ammunition lost or stolen as a result of his or her negligence is not entitled to claim compensation if such firearm, muzzle loading firearm or ammunition is subsequently seized by the State from another person.

### **Section 136 - No compensation payable where firearms, muzzle loading firearms or ammunition are destroyed by State**

(1) The Registrar may in respect of any firearm, muzzle loading firearm or ammunition seized by, surrendered to or forfeited to the State, issue a notice in the *Gazette* stating that it is the intention of the State to destroy that firearm, muzzle loading firearm or ammunition.

(2) Any person who has a valid claim to the relevant firearm, muzzle loading firearm or ammunition may, within 21 days after the publication of the notice in the *Gazette*, make representations to the Registrar as to why the firearm, muzzle loading firearm or ammunition should not be destroyed.

(3) If the Registrar is satisfied, after consideration of any representations contemplated in subsection (2), that a valid claim to the relevant firearm, muzzle loading firearm or ammunition has not been proved, the firearm, muzzle loading firearm or ammunition may be destroyed and no compensation will be payable to anyone in respect thereof.

#### **Section 137 (1)**

A person whose firearm or muzzle loading firearm has been surrendered or forfeited to the State in circumstances other than those referred to in sections 134, 135 and 136 may apply to the Registrar for compensation in respect of that firearm or muzzle loading firearm in the prescribed form.

#### **Section 140 (2)**

Unless authorised to do so in terms of a notice issued under subsection (1), no person may-

- (a) allow any firearm, muzzle loading firearm or ammunition to be in a firearm-free zone;
- (b) carry any firearm, muzzle loading firearm or ammunition in a firearm-free zone; or
- (c) store any firearm, muzzle loading firearm or ammunition in a firearm-free zone.

#### **Section 140 (3)**

A police official may, without warrant-

- (a) search any building or premises in a firearm-free zone if he or she has a suspicion on reasonable grounds that a firearm, muzzle loading firearm or ammunition may be present in the firearm-free zone in contravention of a notice issued in terms of subsection (1);
- (b) search any person present in a firearm-free zone; and
- (c) seize any firearm, muzzle loading firearm or ammunition present in the firearm-free zone or on the person in contravention of a notice issued in terms of subsection (1).

#### **Section 145 (1) (b)**

the surrendering of firearms, muzzle loading firearm and ammunition to the South African Police Service;

#### **Section 145 (1) (c)**

the production of any firearm or muzzle loading firearm to which any application relates for the purpose of identification, and the discharging of ammunition for identification purposes;

#### **Section 145 (1) (e)**

the fees or remuneration which may be charged by dealers in respect of any firearm, muzzle loading firearm or other device, required to be disposed of through a dealer in terms of this Act;

#### **Section 146 - Disposal of firearms, muzzle loading firearms and ammunition in case of ceasing to carry on business**

If a person who holds a licence issued in terms of section 20 or who holds a licence, permit or authorisation contemplated in Chapter 7 or 8, ceases to carry on business for any reason, any firearms, muzzle loading firearms and ammunition in possession of that person must be kept in safe custody by the person and at the place designated by the Registrar, until they are disposed of as prescribed.

#### **Section 147 (2)**

The executor of the estate of a deceased person who comes into possession of a firearm licensed to the deceased or muzzle loading firearm that belonged to the deceased must store the firearm or muzzle loading firearm as prescribed.

#### Schedule 4 - PENALTIES

Section	Maximum period of imprisonment
3	15 years
4	25 years
7 (4)	Two years
8 (4)	10 years
8 (5)	10 years
12 (3)	Two years
13 (4)	Two years
14 (5)	Five years
15 (4)	Two years
16 (3)	Two years
16 (4)	Two years
17 (3) (a)	Two years
17 (3) (b)	Three years
17 (4)	Two years
18 (2) (b)	Five years
18 (3)	Five years
18 (4) (a)	Two years
18 (4) (b)	Three years
19 (3)	Five years
19 (4) (a)	Two years
19 (4) (b)	Three years
19 (4) (c)	Three years
19 (5)	Five years
19 (6)	Five years
20 (4)	Five years
20 (5) (a)	Five years
20 (5) (b)	25 years
20 (6) (a)	Five years
20 (6) (b)	Five years
20 (7)	Two years
21 (4)	Two years
21 (5)	Five years
23 (5)	10 years
23 (6)	Five years
25 (1)	Two years
26 (1)	Two years
28 (4)	10 years
28 (5)	10 years
29 (1)	Two years
29 (2)	Two years
31 (1)	25 years
31 (2)	25 years
31 (3)	15 years

Section	Maximum period of imprisonment
32 (2)	Four years
36 (6)	Two years

38	Two years
39 (1)	Four years
39 (2)	Four years
39 (3)	Five years
39 (4)	Two years
39 (5)	Three years
39 (6)	Three years
39 (8)	Three years
39 (9)	15 years
41 (4)	25 years
42 (4)	25 years
42 (5)	25 years
44 (1)	Two years
44 (2)	Two years
45 (1)	25 years
45 (2)	25 years
50 (6)	Two years
52	Two years
53 (1)	Four years
53 (2)	Five years
53 (3)	Three years
53 (4)	Two years
53 (5)	Two years
53 (6)	Three years
53 (7)	15 years
55 (4)	25 years
56 (4)	25 years
56 (5)	25 years
58 (1)	Two years
58 (2)	Two years
59	15 years
64 (6)	Two years
66	Two years
67 (1)	Two years
67 (2)	Five years
67 (3)	Two years
67 (4)	Three years
67 (5)	Three years
67 (7)	Three years
67 (8)	15 years
69 (4)	25 years
70 (4)	25 years
72 (1)	Two years
72 (2)	Two years
73 (1)	15 years
73 (2)	15 years
78 (1)	Two years
78 (2)	Three years
78 (3)	Three years
78 (4)	15 years

<b>Section</b>	<b>Maximum period of imprisonment</b>
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80 (4)	25 years
82 (1)	Two years
82 (2)	Two years
83	15 years
84	Two years
85 (1)	25 years
87 (1)	Two years
87 (2)	Two years
87 (3)	Two years
88 (3)	25 years
90	15 years
91 (1)	10 years
93 (2)	10 years
93 (3)	10 years
94 (2)	Five years
94 (3)	Two years
98 (1)	Two years
98 (5)	Two years
98 (7)	Two years
104 (2)	15 years
106 (1)	Two years
107 (1)	10 years
107 (2)	One year
108 (1)	One year
120 (2)	15 years
120 (3)	Five years
120 (4)	Three years
120 (5)	Three years
120 (6)	10 years
120 (7)	Five years
120 (8)	Five years
120 (9)	Five years
120 (10) (a)	10 years
120 (10) (b)	25 years
120 (11)	10 years
120 (12)	Five years
133 (5)	Five years
140 (2) (a)	Five years
140 (2) (b)	10 years
140 (2) (c)	25 years
146	15 years
147 (1)	Five years
147 (2)	Five years
148	25 years
149 (1)	10 years
149 (3)	10 years
150 (2)	Five years
150 (3) (a)	Two years
150 (3) (b)	Two years
150 (3) (c)	Two years

<sup>i</sup>See GN 1071 in GG 32701 of 10 November 2009

<sup>ii</sup>S. 52 of Act 28 of 2006 commenced on 10 January 2011 - see Proc 77 in GG 33871 of 17 December 2010. This period was extended to 31 July 2012 - see GN 1059 in GG 34855 of 14 December 2012

<sup>iii</sup>GN R974 in GG 26664 of 20 August 2004 reads as follows:

**'1 Existing licence to possess a firearm**

- (a) A natural person who is the holder of any licence to possess a firearm, which was issued in terms of the Arms and Ammunition Act, 1969 and which was valid immediately before 1 July 2004, must apply for the corresponding licence in terms of the Firearms Control Act, 2000, within the renewal period indicated next to the period of the year in which he or she was born

<b>Period of the year in which the holder was born</b>	<b>Renewal Period</b>
1 January - 31 March	1 January 2005 - 31 March 2006 [Period extended by GN R1248 in GG 28354 of 21 December 2005.]
1 April - 30 June	1 January 2006 - 31 March 2007 [Period extended by GN R164 in GG 28533 of 20 February 2006.]
1 July - 30 September	1 January 2007 - 31 March 2008 [Period extended by GN R164 in GG 28533 of 20 February 2006.]
1 October - 31 December	1 January 2008 - 31 March 2009 [Period extended by GN R164 in GG 28533 of 20 February 2006.]

- (b) A juristic person who is a holder of any licence to possess a firearm, which was issued in terms of the Arms and Ammunition Act, 1969, and which was valid immediately before 1 July 2004, must apply for the corresponding licence in terms of the Firearms Control Act, 2000, within the period 1 January 2006 until 31 December 2006

**2 Existing dealers licence**

The holder of any dealers licence, which was issued in terms of section 19 (1), 19A (1) or was transferred in terms of section 20 of the Arms and Ammunition Act, 1969, and which was valid immediately before 1 July 2004, must apply for the corresponding licence in terms of the Firearms Control Act, 2000, before 30 June 2005

**3 Existing permit for importation or exportation of firearms and ammunition**

The holder of any permit, which was issued in terms of section 26 (1) or 32 (1) of the Arms and Ammunition Act, 1969, and which was valid immediately before 1 July 2004, must apply for the corresponding licence in terms of the Firearms Control Act, 2000, before 30 June 2005

**4 Existing permit for the manufacturing of firearms and ammunition**

The holder of any permit, which was issued in terms of section 30 of the Arms and Ammunition Act, 1969, and which was valid immediately before 1 July 2004, must apply for the corresponding licence in terms of the Firearms Control Act, 2000, before 30 June 2005

**5 Existing registration certificate to carry on the trade of gunsmith**

The holder of any registration certificate to carry on the trade of gunsmith which was issued in terms of regulation 14 of the Regulations made in terms of the Arms and Ammunition Act, 1969, and which was valid immediately before 1 July 2004, must apply for the corresponding licence in terms of the Firearms Control Act, 2000, before 30 June 2005

**6 Certain existing authorisations and permits**

The holder of any authorisation, which was issued in terms of section 3 (5) or 33A (1) of the Arms and Ammunition Act, 1969, or the holder of any permit in terms of the Arms and Ammunition Act, 1969, other than a permit for the importation or exportation of arms and ammunition or a permit to manufacture arms and ammunition and which was valid immediately before 1 July 2004, must apply for the corresponding licence, permit, certificate or authorisation in terms of the Firearms Control Act, 2000, before 30 June 2005

7

The holder of a licence, permit, certificate or authorisation not referred to in paragraphs 1 - 6 of this notice, which was issued in terms of the Arms and Ammunition Act, 1969, and which was valid immediately before 1 July 2004, must apply for the corresponding licence, permit, certificate or authorisation in terms of the Firearms Control Act, 2000, within the period 1 July 2008 until 31 December 2008'

GN R914 in GG 28039 of 23 September 2005 reads as follows:



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**'A natural person who-**

- (a) is the holder of any licence, permit, certificate or authorisation to possess a firearm, which was issued in terms of the Arms and Ammunition Act, 1969 and which was valid immediately before 1 July 2004; and
- (b) is able to prove to the satisfaction of the Registrar that he or she was, for the applicable period provided for in Government Notice R974 dated 20 August 2004, due to-
  - (i) his or her absence from the Republic;
  - (ii) his or her mental or physical incapacity; or
  - (iii) due to circumstances for which he or she was not responsible,

unable to lodge an application as provided for in the said Government Notice,

must, subject to the provisions of Item 11 (1) (c), apply for the corresponding licence, permit, certificate or authorisation in terms of the Firearms Control Act, 2000, within the renewal period of 90 days after he or she, as the case may be, -

- (a) returns to the Republic; or
- (b) becomes physically able to comply with the requirements of the Act; or
- (c) after the circumstances cease to prevent the person to lodge a required application.'

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